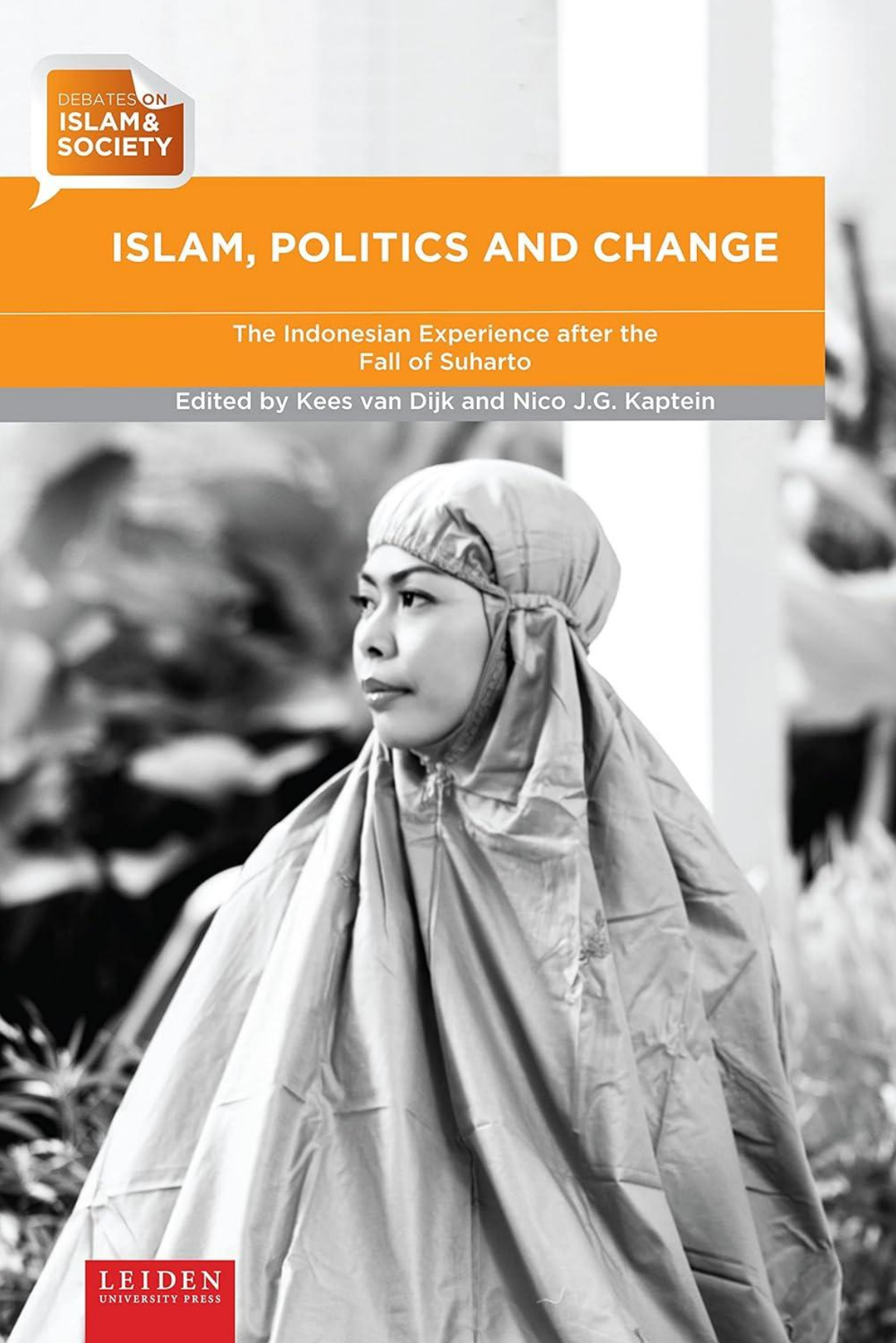
DEBATES ON ISLAM & SOCIETY

ISLAM, POLITICS AND CHANGE

The Indonesian Experience after the Fall of Suharto

Edited by Kees van Dijk and Nico J.G. Kaptein



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Islam, Politics and Change

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Introduction

Kees van Dijk and Nico J.G. Kaptein

Islam in Indonesia has long been praised for its tolerance, at home and abroad, by the general public and in academic circles, and by politicians and heads of state. Among the aspects highlighted are the incorporation of rituals and beliefs that, strictly speaking, do not conform to Islam, and the willingness of Indonesian Muslims to accept in their midst Christians, other non-Muslims, and fellow Muslims who are considered heretics by mainstream Islam. However, this image of tolerance has been challenged in the last ten to 15 years by armed confrontations, if not civil wars, in the Moluccas, Lombok, Poso on Celebes, and Banjarmasin on Borneo, in which religion was one of the motivating factors; by mob violence perpetrated by local Muslims and Islamic vigilante groups of which the FPI (Front Pembela Islam, Front of the Defenders of Islam) is the best known; and by the emergence of terrorist organisations. Initially, terrorism in Indonesia was the work of Jemaah Islamiyah (Islamic Community), a group made up of Indonesians and Malaysians who had close links with al-Qaeda and Islamic insurgents in the Philippines; inspired, if not headed, by one of Indonesia's most radical clerics, Abu Bakar Ba'asyir, Jemaah Islamiyah was responsible for bombing outrages on Bali (12 October 2002) and other terrorist attacks in the early years of this century. Most of its former leaders and members have now been killed, jailed or executed. Recent reports suggest that Jemaah Islamiyah has been replaced by a number of smaller terrorist groups, less capable of building large bombs like the ones used in Bali, but also, in the absence of one mother organisation, more difficult for the authorities to detect and round up.

The ugly side of Islamic radicalism has also come to the fore in the, at times, violent protests by local Muslims against the presence of Christian churches and ordinary houses where congregations meet, and, to a lesser extent, against Chinese temples, often leading to such places being closed down or regular services being discontinued. Part of the problem can be traced back to a joint decree by the Ministers of the Interior and Religious Affairs issued in 1969 and revised in 2006, requiring the consent of the local administration and local residents for the building of houses of worship, a condition not always easy for Christians to meet

in an Islamic environment, and giving protestors a legal argument to justify their actions.[1]

Christians and Chinese are not the only victims of intolerance. The vast majority of Indonesian Muslims are Sunni, and in the last couple of years Ahmadiyah members and Shi'ites have become the victims of some brutal attacks (see the contribution by Bastiaan Scherpen in this volume). Such incidents were already taking place during the New Order, the years between 1965 and 1998, when Suharto was in power and, generally speaking, political Islam was forbidden and its proponents were liable to prosecution, and radical groups were kept under close watch. After 1998, the year Suharto was forced to step down as president, the protests and attacks became more frequent, with a steep increase in the last couple of years. According to figures published in the newspaper *The Jakarta Post* on 29 October 2010, the number of cases amounted to 470 between 1967 and 1998, and 700 between 1998 and 2010. A more recent figure, published by the Setara Institute for Democracy and Peace, which has the promotion of religious tolerance as one of its aims, was 144 attacks against religious minorities in 2011 and 264 in 2012. Another NGO with the same objective, the Wahid Institute, mentioned a figure of 274 for 2012. The latter institute also noted an increase in such incidents over the years since 2009, while a Human Rights Watch report published in February 2013 concludes that violence against religious minorities – it also mentions attacks against the Bahai – had 'deepened'.[2]

Such violence against religious minorities cost Indonesia a reprimand by the United Nations High Commissioner for Human Rights, Navi Pillay, when she visited Indonesia in November 2012. After meetings with representatives of groups experiencing the consequences of this violence she said that she 'was distressed to hear accounts of violent attacks, forced

1 According to the Indonesian 2006 regulation regarding religious practices, a new place of worship should be used by at least 90 people while 60 local residents of another religion should agree to its construction. In Aceh these figures are 150 and 120 (Peraturan Bersama Menteri Agama dan Menteri Dalam Negeri nomor 9 tahun 2006, nomor 8 tahun 2006 tentang Pedoman Pelaksanaan Tugas Kepala Daerah/Wakil Kepala Daerah dalam Pemeliharaan Kerukunan Umat Beragama, Pemberdayaan Forum Kerukunan Umat Beragama, dan Pendirian Rumah Ibadat, art. 14; Peraturan Gubernur Nanggroe Darussalam Aceh nomor 25 tahun 2007 tentang Pedoman Pendirian Rumah Ibadah, art. 3).

2 *The Jakarta Post*, 29 December 2012, 3 February 2013; Human Rights Watch, 'In Religion's Name: Abuses against Religious Minorities in Indonesia', February 2013, report available at http://www.hrw.org/sites/default/files/reports/indonesia0213_ForUpload_0.pdf (accessed 16 June 2014).

displacement, denial of identity cards and other forms of discrimination and harassment against them'. She warned that Indonesia's 'rich culture and history of diversity and tolerance' might become a thing of the past if the situation did not change and if 'firm action is not taken to address increasing levels of violence and hatred towards minorities and narrow and extremist interpretations of Islam'.[3]

Mainstream Muslims have to respond to efforts to bring about a further Islamisation of Indonesian society. One important development facilitating this process was the promulgation of the Law on Regional Government in 1999 and its revision in 2004, which gives regional governments – those of the provinces, regencies and cities – far-reaching autonomy, and has provided proponents of a strict Islam with an additional means to advance their cause. The law allows for regional administrations to issue local regulations (*peraturan daerah*, in short *perda*) independently of supervision or control by a higher administrative level, except in a few fields that remain the prerogative of the national government, of which religion is one. The fact that local administrations are not allowed to issue religious byelaws has not prevented them from implementing so-called Sharia Regional Regulations. These may take a variety of forms. Some require civil servants to attend Islamic courses in the fasting month or make the ability to read the Qur'an a prerequisite for entering secondary education or for concluding a marriage. A number of new byelaws, and among those most criticised, affect the lives of women. They force them to conform to Islamic dress codes (a headscarf and 'unrevealing garments') at government offices and institutions of secondary education, or introduce a kind of curfew, not allowing women to leave the house unaccompanied by a male relative in the evening or making them afraid to do so. In August 2012 the (Indonesian) National Committee on Violence against Women counted 282 byelaws discriminating against women. Ninety-six of them concerned regulations on prostitution and pornography which, as Euis Nurlaelawati and Muhammad Latif Fauzi argue in this volume, can have a wider effect, complicating the lives not only of prostitutes but also of other women; 60 of them were related to dress codes and 'religious standards', and 38 restricted 'women's mobility'.[4]

A special case is Aceh on the northern tip of Sumatra. In an effort to persuade the separatist Free Aceh Movement (Gerakan Aceh Merdeka,

3 'Indonesia must tackle rising discrimination and violence, says UN human rights chief', UN News Centre, 13 November 2012, www.un.org/apps/news/story.asp?NewsID=43478 (accessed 21 January 2013).

4 *The Jakarta Post*, 17 September 2012.

GAM) to lay down arms, Jakarta granted the province special autonomy in October 1999. Aceh was given the right to draft its own laws and regulations in the fields of religion, education and local customs; a power other provinces do not have. The result has been a number of Islamic laws (qanuns) promoting 'correct' Islamic behaviour (including the way women dress; men seem to escape such restrictions), forbidding non-Sunni practices and beliefs, making acts like gambling and the consumption of alcoholic beverages punishable, and giving local authorities the power to act upon and punish illicit sexual relations. This includes the assumption that two unmarried persons of different sexes without close family ties who are alone together in a secluded space are guilty of illicit sex (see the contribution by Reza Idria).

It is not just in Aceh that the central government cannot interfere when such laws and regulations are promulgated; in other parts of Indonesia too, regional autonomy makes the annulment or revision of local legislation difficult. The argument that the Law on Regional Government does not allow the issuing of religion-inspired byelaws does not prevent proponents from enforcing such legislation. They argue away the Islamic nature of such regulations, stressing instead the need to uphold Indonesian and local (if not Asian) values and norms of morality as the reason for their introduction, at times also suggesting a connection between the way women dress and sexual harassment. Politicians equally do not seem to mind or, when forced to comment, advance similar arguments. It took until February 2006 for the central government to announce that it might interfere with and annul such local regulations, yet two years later the then Minister of the Interior, Mardiyanto, was still quoted as saying that there were no Sharia regulations in force in Indonesia, only 'byelaws that implement the Islamic do's and don'ts'.[5] In January 2012 his successor, Gamawan Fauzi, mentioned an impressive number of byelaws reviewed by his ministry since he was appointed in 2009: 15,000; resulting in the rejection 'partially or completely' of 915 of them. Since 2002 his department has 'annulled' a total of 1,878 byelaws. Over 1,800 of these are said to concern local taxes and levies, 22 the sale of alcoholic beverages.[6] Other instances of 'Sharia byelaws' were not mentioned. This in itself already indicates that the most contested local religious regulations escaped scrutiny. Moreover, annulled may not be the right word. The 1999 Law on Regional Government still gave the central government the authority to annul byelaws that are in violation of higher legal products or against the general interest (art. 114, par. 1);

5 *The Jakarta Post*, 16 February 2008.
6 *The Jakarta Post*, 18 January 2013.

the revision of 2004 (art. 145, par. 3) requires a Presidential Decree (Peraturan Presiden) to do so. The Minister of the Interior does not have the authority to cancel byelaws, and a governor cannot annul a byelaw issued in a city or regency in his province.[7]

Some of the information presented in the media and in scholarly and NGO reports about interreligious violence, assaults on religious minorities, and discrimination against women as a consequence of a greater stress on Islam in Indonesia or support for the implementation of Islamic law in all its aspects may overstate the case.[8] On the other hand, using the description 'smiling Islam' to sketch the nature of mainstream Islam in Indonesia is to view the situation, both past and present, through rose-tinted glasses. Though the collapse of the New Order in 1998 was a watershed in Indonesian history which was followed by a period of real democracy and freedom of expression known in Indonesia as the *Reformasi* or Reform Era, the topics discussed in this book are not simply the outcome of decentralisation, the introduction of a democratic political system, and of greater freedoms that came after 1998. As pointed out in a number of contributions, Islamic radicalism in Indonesia did not suddenly appear after 1998. Its roots can be traced back to the New Order, not only to its closing days, but also to its early years, and even further back in Indonesia's history. Efforts to promote Islam have also been initiated by the New Order government, for instance by financing the building of mosques and Qur'an recitation competitions. In this respect, special mention should be made of defining the competence of religious courts and the publication of the *Kompilasi Hukum Islam* through which the government aimed further to codify Islamic family and inheritance law on the national level and which is to be consulted by Muslim judges in giving judgment (see the contributions by Euis Nurlaelawati and Stijn van Huis).

7 It seems extremely unlikely that many of the disputed local regulations can be cancelled. The law requires that a Presidential Decree be issued within 60 days after the regional administration has submitted a byelaw to the central government for scrutiny (which has to take place within a week after its promulgation). In 2012 two Joint Regulations of the Ministers of the Interior and of Justice and Human Rights were issued on regional regulations. These take the form of guidelines for local governments in drafting them to ensure that they are not a breach of human rights.

8 Ms Pillay, for instance, also expressed her concern about Aceh condemning 'enforcing brutal punishments of stoning' there, which, as is pointed out in the Aceh section of this book, are included in the draft of a new Islamic Act, which did not come into force because the governor refused to sign it.

The present book reports on a number of important contemporary developments, which all show how Islam in Indonesia is developing and how far it has moved beyond the stereotype of a smiling Islam. These developments are taking place against the background of a growing adherence to the prescripts of Islam in the wider society. As in the rest of the Muslim world, the number of people dressing and behaving in an Islamic way has grown; institutions to propagate the faith, such as Islamic schools and religious meetings, have increased in number and in popularity; and the exponents of radical Islam have become more vocal, staging demonstrations and organising mass gatherings. By dealing with a number of these developments, this book aims to shed light on an intriguing paradox. We observe that in spite of an ongoing Islamisation of Indonesian society, Islamic parties do not fare so well in Indonesia, while at the same time we see that, despite this subordinate role of Islamic parties, legislation which is clearly Islamic can in fact be promulgated.

This book is a spin-off from a joint research effort which was made by a number of Dutch and Indonesian researchers in the framework of the research programme entitled 'Strengthening Knowledge of and Dialogue with the Islam/Arab World', in short the 'Islam Research Programme' (IRP). This programme was funded by the Netherlands Ministry of Foreign Affairs and aimed at supplying a number of embassies in the Muslim world with relevant academic information on contemporary developments in eight countries. The present book is based on the final report of the Indonesian branch of this project.[9] The IRP Jakarta research project ran from 2010 until December 2012 and was embedded in the Leiden Institute for Area Studies (LIAS).

Through intermediate reports and in-depth discussions with the Netherlands Embassy staff in Jakarta and invited experts, the project aimed to analyse religious trends in contemporary Indonesian society and specifically looked at developments relating to the role of Islam in political, cultural and socio-legal contexts. The project staff was attached to one of three research clusters, each cluster consisting of a cluster leader, an Indonesian post-doctoral researcher, and a junior Indonesian and a junior Dutch researcher. The entire project was managed by Marise van Amersfoort. The three research clusters were 1) Islamic political parties and socio-religious organisations (led by Kees van Dijk, LIAS); 2) Sharia-based legislation and the legal position of women and children (led by Léon Buskens, LIAS); and 3) Sharia and counterculture in Aceh

9 See for the other country projects the website of the Project Office IRP: http://www.projects.leiden.edu/irp (accessed 6 December 2013).

(led by Nico J.G. Kaptein, LIAS). Much of the research consisted of field work in Indonesia, complemented by desk research, both in Indonesia and in the extensive library collections on Indonesia in Leiden, the Netherlands.

The present book is based on the final report and is organised in line with the three research clusters mentioned. In the first section the leaders of the Islamic political parties and the large socio-religious organisations affiliated with them take centre stage. They are prime actors in determining to what extent national and regional legislation can reflect Islamic principles. They also play an important role in the Islamic debate in Indonesia, either as a driving force of a further Islamisation of society and legislation, such as the Islamist PKS (Partai Keadilan Sejahtera/Prosperous Justice Party) and the Jemaah Tarbiyah (discussed in detail by Ahmad-Norma Permata), or as people called upon to take an active role in countering intolerance and radicalism, such as in the case of the Nahdlatul Ulama and Muhammadiyah. The second section deals with the consequences of the introduction of Sharia-based legal products in Indonesia in general, and the final section discusses the support for and resistance against enforcing an Islamic way of life in Aceh, where, as already mentioned, this was allowed more extensively than in other parts of the country.

This publication is the result of teamwork and it is impossible to thank all the participants in the IRP Jakarta research project individually. However, a number should be mentioned here. First of all, it is our pleasure to thank Koos van Dam, Annemieke Ruigrok, Tjeerd de Zwaan, Onno Koopmans and Wachid Ridwan who in different phases of the project all played a vital role on behalf of the Netherlands Embassy in Jakarta. In Leiden, our thanks go to the Leiden Institute for Areas Studies (LIAS), in particular the former manager of LIAS, Rogier Busser, and to the Leiden University Centre for the Study of Islam and Society (LUCIS) for its administrative support in the final phase of the project. LUCIS also supported and facilitated the publication of this book. Two members of its staff were especially helpful: Heleen van der Linden who edited the IRP report which formed the basis of this book, and Annemarie van Sandwijk, who together with Hannah Mason, took care of the final editing process.

PART 1

ISLAMIC POLITICAL PARTIES AND SOCIO-RELIGIOUS ORGANISATIONS

Kees van Dijk

A paradox in present-day Indonesia is that Islam is thriving but that Islamic political parties are not. With one exception, the PKS (Prosperous Justice Party/Partai Keadilan Sejahtera), their results in elections held after 1998 have been poor. This is even more remarkable because some of these parties are closely linked to socio-religious organisations that do seem to thrive and have a large following, which in the case of Nahdlatul Ulama and Muhammadiyah amounts to tens of millions. This indicates that recruiting or winning over national and local religious leaders to gain more votes at general elections appears to be less effective than is often assumed.

Disappointing past election performance confronts politicians of Islamic parties with a dilemma. They may reach out to non-Muslims, accepting them as members and recruiting them as candidates, or they may focus on non-religious issues in their campaign. Such approaches, however, can backfire. Immediately after May 1998 when the Reform Era was taking shape new political parties were established, among them Islamic parties being 'open' to others, i.e. to Indonesians with another religion, due to concerns with Amien Rais of the PAN (Partai Amanat Nasional/National Mandate Party) and Abdurrachman Wahid of the PKB (Partai Kebangkitan Bangsa/National Awakening Party) about the intensity of communal conflicts in those days, which in some regions had taken a very violent form. Gradually, the selection of candidates with a different religion and the downplaying of Islam became a strategy to tap into new groups of voters, but it has been argued that the decision not to stress their own, specific, religious stance may have cost votes, and, indeed, could well explain the poor election results.

While preparing for the general elections of April 2014 a number of politicians told *The Jakarta Post* in January 2013 how they intended to deal with what the newspaper called 'the country's increasingly secular voters'.[1]

1 *The Jakarta Post*, 23 January 2013.

The PAN would 'no longer use Islamic attributes', while the PKB stressed that it had never 'introduced itself as an exclusive Islamic party'. Speaking on behalf of the PKS, a political party that owes part of its success in the past to its image of being a 'clean' party, i.e. its leaders not being tainted by corruption, the chairman of the PKS faction in Parliament, Hidayat Nur Wahid, underlined the importance of impressing the electorate with the party's 'commitment to good governance and corruption eradication'. A few days later the chairman of the PKS would be arrested on suspicion of corruption. Shortly after the arrest of Luthfi Hasan Ishaaq, a sex scandal followed when a close political friend of his, Ahmad Fathanah, was arrested in a hotel – in bed with a girl who certainly was not his wife. In November of that year, Ahmad Fathanah was found guilty of corruption by the Jakarta Anti-Corruption Court and sentenced to 14 years in prison. In March 2014, the Jakarta High Court added two years to the sentence. In December 2013 Luthfi Hasan Ishaaq got 16 years. Some PKS members tried to belittle the incident by calling the friend a 'secret agent whose mission it is to ruin the party's image ahead of the 2014 elections'.[2]

The PPP (Partai Persatuan Pembangunan/United Development Party) and PBB (Partai Bulan Bintang/Crescent and Star Party) refused to change their religious approach. The PPP announced that it would not recruit non-Muslim candidates and seemingly intended to reach out to fundamentalist groups, such as the FPI (Front Pembela Islam/Front of the Defenders of Islam) and even the mysterious Al-Zaytun boarding school, linked to a sect brainwashing its members and aiming at the establishment of an Islamic state.[3] The PBB lashed out against 'hypocritical, pragmatic politicians' who were prepared to cast aside their ideology just to win seats.[4]

In April 2014 the PKS and PBB saw their share of the vote drop compared to the general elections of 2009. The PKS obtained 6.8 per cent of the votes instead of 7.9 per cent; the PBB 1.5 instead of 1.8 per cent. The PPP performed slightly better and saw an increase from 5.3 to 6.5 per cent. The PAN and PKB also saw their positions improve. They gained 7.6 and 9 per cent (instead of 6 and 4.9 per cent) of the vote respectively.

2 *The Jakarta Post*, 13 May 2013.

3 *The Jakarta Post*, 14 March 2013, 1 April 2013.

4 Maklumat Partai Bulan Bintang, 23 January 2013 (http://bulan-bintang.org/maklumat-partai-bulan-bintang, accessed 12 May 2013).

PDI-P poster in the streets of Jakarta showing Megawati Soekarnoputri in 2000

One of the reasons for the weak election performance of Islamic political parties is that they do not have a monopoly on Islam. Labelling their rivals, Golkar, PDI-P (Partai Demokrasi Indonesia-Perjuangan/Indonesian Democratic Party-Struggle) and Partai Demokrat, 'secular parties' or using the term 'secular voters' fails to appreciate the role of Islam in politics in general. Already during the New Order politicians and office holders, including President Suharto himself, rushed to Islamic institutions and gatherings to increase their popularity. Organisational ties were also developed. During the New Order Golkar established links with traditional and modernist Muslims via a number of organisations of which the GUPPI (Gabungan Usaha Pembaharuan Pendidikan Islam/Joint Effort to Modernize Islamic Education) and an association of former members of the HMI (Himpunan Mahasiswa Islam/Islamic Student Association) are the best known, while in August 2007 the PDI-P launched its Islamic wing, Baitul Muslimin (House of Muslims). At times the secular PDI-P even appears to be an Islamic party. At the close of the New Order, protestors supporting the PDI-P suspended their street protests to pray, while Sukarno's daughter, Megawati, the party's popular leader, initially appeared on party posters with her hair uncovered, but was later depicted wearing a headscarf.

A second factor contributing to the poor election results of the Islamic political parties is that they and the organisations they turn to for mobilising support are complex entities. Within one and the same party or organisation members have different, even mutually exclusive, opinions about what an Islamic society should look like and what reaching it involves; disputes amongst the leaders can be frequent and bitter. Adding to this is a built-in source of conflict: the presence of religious advisory boards and fatwa councils, institutions that clash with their executive boards, one of the most important points of friction being the primacy of religious considerations over political ones. This certainly comes to the fore in Permata's in-depth analysis of the rivalries within the PKS and the socio-religious organisation affiliated with it, the Jemaah Tarbiyah, and between the two. The PKS is a proper choice because it is an Islamist party which, together with the Jemaah Tarbiyah, strives for and identifies itself with the promotion of a drastic Islamisation of Indonesian society. Yet the delicate internal relationships described in Permata's report are also very present in the other Islamic parties and socio-religious organisations. It also underscores that in the relation between political party and affiliated organisation, the latter may be or intends to be a moral compass, something that also comes to the fore in Bastiaan Scherpen's report about reactions to the Ahmadiyah persecution in which he touches upon the relations between

PDI-P poster in the streets of Jakarta showing Megawati Soekarnoputri in 2002

the PKB and the socio-religious organisation it is close to, the Nahdlatul Ulama.

The contributions by both Permata and Zuhri show how diverse membership can be. Members of Muhammadiyah and Nahdlatul Ulama and other Islamic organisations have joined the PKS, while PKS and Jemaah Tarbiyah activists are among the members of the Nahdlatul Ulama and Muhammadiyah. This has given rise to the accusation of 'infiltration' of Islamists in Muhammadiyah and Nahdlatul Ulama. There may indeed have been real cases of infiltration, but in other instances, probably more numerous, using that word conceals the point that fundamentalist Islamic ideas advocated by the PKS are also supported in Nahdlatul Ulama and Muhammadiyah circles. Under such circumstances, the PKS' missionary zeal has met with fierce competition over control of social and religious institutions. Zuhri concentrates on one of these cases, reconstructing how the PKS took over a 'Muhammadiyah' mosque in Central Java and the 'war' that was the result. Other cases, also touched upon by Zuhri, involve rivalries over the control of boards of branches of Nahdlatul Ulama and Muhammadiyah and secular and religious schools and universities.

While Permata's report can serve as an example of the internal dynamics of Islamic organisations, Zuhri's analysis provides an insight into competition as a result of Islamisation efforts within the Islamic community, which is also played out elsewhere in Indonesia. Their contributions are complementary. While Permata concentrates on the PKS as a political party, Zuhri focuses on its religious work among Muslims and the central role the mosque plays in the religious propaganda and political mobilisation of the PKS. Zuhri describes the growing concern of Muhammadiyah and Nahdlatul Ulama over the rising influence of Islamists in their community and the competition over religious institutions, forcing them in 2006 and 2007 to take measures to turn the tide of such 'infiltration and sabotage'. Warnings against the points of view of Middle Eastern Islamists have also become more frequent.

Islamic political parties and socio-religious organisations are prime actors in the embedding of religion in national and regional legislation and in society. They can act both as a motor and as a brake. There have been frequent appeals to Muhammadiyah and Nahdlatul Ulama, being the largest socio-religious organisations in Indonesia, to speak out in favour of religious tolerance, and to combat the spread of terrorism in the country. A litmus test of religious tolerance is the attitude towards Ahmadis and Shi'ites and the reaction to their harassment. That is why this section concludes with an analysis by Bastiaan Scherpen on the response of the Islamic political parties and the socio-religious organisations associated with them to the mob violence targeted against Ahmadiyah

communities. The point of departure is the killing of three members of Ahmadiyah by an angry crowd of between 1,000 and 1,500 people on 6 February 2011 in West Java. What happened is one of the instances in which Muslims, stressing that Ahmadiyah is a deviant sect and that Ahmadis should not live in their midst, resort to violence. In this case the target was a house in the village of Umbulan in Cikeusik inhabited by an Ahmadiyah family. To avoid violence the previous day the police who had been alerted by an SMS message to the possibility of mob violence had persuaded the family in question to leave the village, but failed to convince 17 Ahmadiyah members who had arrived in Umbulan in the morning of the 6th to stand by their fellow believers to do the same. When the attack came three of them were killed and five were seriously wounded. The police did not interfere. It was one of the instances in which the police said they had felt overpowered. Fear for their own safety and wellbeing when police officers are confronted with an angry crowd at times makes them decide not to act. In February 2013, even the Indonesian National Police used being outnumbered as an excuse to explain the failure to protect members of religious minorities when attacked by crowds of radical Muslims. Its spokesman, commenting on a Human Rights' Watch report criticising the reluctance to act resolutely when Ahmadis and Shi'its were molested, said that when police officers were 'outnumbered by a mob, an omission could happen' in enforcing the law.[5] Gruesome as the Cikeusik incident was, the follow-up created even greater controversy. Twelve attackers were prosecuted and sentenced to a mere three to six months in jail. A six-month prison sentence was also received by one of the Ahmadiyah followers, who had travelled to Umbulan and himself had been seriously wounded. He was charged with resisting a police order to leave the village, assault, and as their leader inciting the other members of his group. Bastiaan Scherpen's contribution shows how difficult it is for the Indonesian government and for Islamic parties and organisations to deal with, on the one hand, demands to ban the Ahmadiyah as a deviant sect, and, on the other hand, calls in Indonesia and abroad to uphold principles of religious freedom and human rights. It also brings to the fore that universal values can have different meanings for different groups, be it Western governments or Muslims, especially where religious minorities are concerned.

5 www.thejakartapost.com/news/2013/02/02/national-police-play-down-report-religious-violence.html.

1 A Study of the Internal Dynamics of the Prosperous Justice Party and Jamaah Tarbiyah

Ahmad-Norma Permata

1 Introduction

This research explores the internal dynamics of the Prosperous Justice[1] Party or Partai Keadilan Sejahtera (PKS) and its mass organisational root and supporter, the Jamaah Tarbiyah (JT).[2] Since a political organisation is never a unitary actor, there are always internal plurality, differences, tensions and even conflicts. This study uncovers the internal dynamics inside the two organisations, the tensions and dividing issues between the two, as well as the key figures in each group.

JT is a unique organisation in contemporary Indonesian politics. At its core, it is an Indonesian branch of the Egyptian Muslim Brothers (*Ikhwanul Muslimin*), founded in 1983 by a group of graduates who studied in the Middle East. However, it is joined by networks of activists from different organisations, ranging from domestic political and social organisations – such as DDII,[3] Muhammadiyah, Nahdlatul Ulama (NU),

1 It is worthy of note that the word 'justice' has been used ubiquitously among the Muslim Brothers' network across the globe (political party and social movement): e.g. 'Justice and Development' is used at the same time in Turkey, Libya, Morocco, Syria and Algeria, while the Egyptian Brotherhood party is called the 'Justice and Freedom Party'. A closer analysis reveals that at least for PKS 'justice' does not refer to the idea of 'fair treatment', but rather to 'political retaliations'. Members of the PKS perceive themselves as victims of repression and persecution both by Western colonial rulers and secular national governments. And now the time has come for them to fight back, to do what others have done to them, to do justice.

2 Jamaah Tarbiyah literally means 'Community of Education'. In practical terms, 'education' means training and indoctrination, i.e. of a comprehensive Islamic way of life.

3 Dewan Dakwah Islamiyah Indonesia (or Indonesian Islamic Propagation Council) was founded in 1967 by Mohammad Natsir and several other ex-Masyumi politicians after they were thwarted by the Suharto regime in their bid to return to politics. It received large funds from Middle Eastern countries, especially Saudi Arabia.

HMI[4] – to Salafi[5] groups. This wide variety of groups sets the organisation apart from its Egyptian counterpart. In 1998, JT activists founded a political party called the Justice Party (Partai Keadilan, PK), which was then renamed the Prosperous Justice Party (Partai Keadilan Sejahtera, PKS). The relationship between the JT and PKS is also unique because the JT is an informal organisation insofar as it is not formally registered and thus – according to Indonesian legal reasoning – cannot be banned. The JT could be described as a shadow organisation for the PKS which differs from the relationship between the NU and PKB[6] or Muhammadiyah and PAN,[7] both of which are formal organisations, albeit operating in different arenas (one is social and the other is political).

The Prosperous Justice Party (PKS) is one of the stars of Indonesian democratisation. Firstly, it marks a new era of Muslim politics. This is because the party was not born from mainstream Muslim organisations. This is a critical point, as during the New Order era the government manipulated and compromised all Muslim organisations and key figures within them. Consequently, virtually no Muslim organisation operating at that time was immune to the regime's political engineering. The PKS, although it was founded during the Suharto regime, was led by a new

4 Himpunan Mahasiswa Islam (Islamic Student Association), founded in 1947, is the largest university student organisation in Indonesia and a powerful political network. It has been a supplier of leaders and activists to the country's political parties, including Akbar Tanjung (former chairman of Golkar), Ismail Hassan Metareum (former chairman of PPP) and Anas Urbaningrum (at the time of writing chairman of the ruling Partai Demokrat). In 1986, responding to the law that obliged mass organisations to adopt the state ideology, Pancasila, the organisation split into two camps: its leadership accepted the law in order to be acknowledged as a legal organisation by the government – subsequently known as the DIPO faction (an acronym of Diponegoro Street where its office was located in Jakarta). Another group, however, rejected Pancasila, retained the Islamic ideology, and went underground. It is known as the MPO faction since it declared itself to be the Organisation's Saviour Council (*Majelis Penyelamat Organisasi*). When the law was cancelled, the DIPO faction dropped Pancasila from its ideology and readopted Islam, but the two factions failed to reconcile – as they developed distinct traditions and networks – and run independently as twin HMI organisations.

5 From Arabic *Salaf al-Salih*, or pristine generations – i.e. this refers to the first generations of Muslims, including the companions of the prophet Muhammad. These are conservative groups that adopt Saudi-style Islamic ideas and practices.

6 Partai Kebangkitan Bangsa (National Awakening Party) was founded by NU leaders, but has no organisational link with NU.

7 Partai Amanat Nasional (or National Mandate Party) was founded by Muhammadiyah leaders but has no organisational link with Muhammadiyah.

generation of Muslim activists who did not belong to any of the existing Muslim organisations. These activists perceive themselves as part and the continuity of Muslim politics in Indonesian history, yet they have broken away and differentiate themselves from existing Muslim organisations and activists whom they deem to be compromised and contaminated by the regime.[8]

Secondly, the party has many of the brightest Muslim politicians who are graduates, not from Islamic educational institutions like the leaders of other Muslim organisations, but from top rank secular universities across the country. The PKS's leadership are, uncommonly, not religious scholars by training, as in other Muslim organisations. Activists are graduates from secular academic disciplines ranging from engineering, economics, and medicine to physics and mathematics. These universities still provide the main avenue for the younger generation wanting a route into the bureaucracy and other professional occupations. In this way, the party quickly established its networks among the country's elite.[9]

Thirdly, many perceive its political ideology as suspicious with regard to its participation in democratic politics. The Jamaah Tarbiyah adopts its ideology from the Egyptian Muslim Brothers and its gradual Islamisation political project, namely: (i) the Islamisation of individuals; (ii) the Islamisation of families; (iii) the Islamisation of society; (iv) the Islamisation of the political system.[10] The programme drew critics from inside and outside Muslim communities. Many Muslim organisations see the party as spreading aggressive activities that are not only undermining their territories, but also jeopardising Indonesian Muslims' moderate political tone. Others even accused the party of promoting a radical political agenda to change the Indonesian nation-state into an Islamic political system.

Fourthly, the party also impresses the Indonesian public because of its organisational consolidation. It is the only major political party in Indonesia that does not suffer from an organisational split. It is also the only party capable of maintaining the solid adherence of its supporters. These characteristics have given the party advantages, especially in local elections, in which it has won several plurality majorities in situations where multiple candidates were standing for election. The Jakarta gubernatorial election in 2007 is a telling example, in which

8 Yon Machmudi, *Partai Keadilan Sejahtera: Wajah Baru Politik Islam Indonesia* (Jakarta: Harakatuna, 2005), 23–24.

9 Elisabeth Collins, 'Islam is the Solution', *Kultur* 3, no. 2 (2003), 157–182.

10 Hilmi Aminuddin, *Strategi Dakwah Gerakan Islam* (Jakarta: Pustaka Tarbiatuna, 2003), 144.

the elected governor needed all the other 16 parties in the provincial Parliament to join forces in order to beat the PKS by 56 per cent to 44 per cent The solidity of its support is also a powerful weapon for the party in political negotiations, or to press its demands.[11]

1.1 Internal Fractures

That said, observers will not fail to notice internal – sometimes very serious – rifts in the party. Firstly, internal tensions had already begun to surface during its foundation. In 1998, following the regime change, senior activists of the JT discussed the possibility of forming a political party to advance their interests and agendas, but reached no agreement regarding the timing. Some of them agreed that the time was right to create a political party and join in democratic competition; others thought they were not ready yet and preferred to stay aloof from power competition. The dispute was resolved by distributing questionnaires to around 6,000 Tarbiyah activists around the world. Sixty-eight per cent of those who returned the questionnaires agreed to create a political party.[12]

Secondly, different strands can also be found among the party leadership on how to manage the organisation. During the first four years of its history, under the name of the Justice Party, its organisation was decentralised and more democratic, with the highest decision-making body being the party's national congress. This meant that sovereignty was in the hands of the party members. However, from 2003, when the party was renamed the Prosperous Justice Party, the party's statute (*Anggaran Rumah Tangga*, ART) was also amended, and the highest decision-making body became the elite in the Deliberation Assembly (*Majelis Syuro*). This change represents not only different organisational structures, but also competing political perspectives: i.e. democratic versus pragmatic tendencies.[13]

Thirdly, different opinions also emerge in the party's programmatic platforms. There are several inconsistencies in the party's organisational

11 Ahmad-Norma Permata, 'The Prosperous Justice Party and the Decline of Political Islam in 2009 Election in Indonesia', in *Islam and the 2009 Indonesian Elections: Political and Cultural Issues: The Case of Prosperous Justice Party (PKS)*, ed. Remy Madinier (Bangkok: IRASEC, 2010), 48–49.

12 Collins, ibid.

13 Ahmad-Norma Permata, *Islamist Party and Democratic Participation: Prosperous Justice Party in Indonesia 1998–2007*, PhD dissertation, Westfaelische-Wilhelms Universität Münster, 2008, 187.

statutes. Many who see these as intentional point to the double face of the party. Yet closer analysis shows that, in fact, these inconsistencies represent disagreements among the statute's authors and deep divisions within the party itself. For instance, there are clauses in its statute that stipulate that the PKS is an open party and all Indonesians aged 17 and over are eligible to become members. However, other clauses in the same statute prescribe that in order to become a party member it is necessary to recite an oath that includes the Islamic *shahadah* – 'there is no God but Allah, and Muhammad is His Messenger'. This would make them, at least nominally, Muslims – thus, only Muslims can become party members.[14]

Lastly, the party's political behaviour also records internal differences. For example, the party saw the 1999 legislative elections as just another activity of religious propagation (*dakwah* or *tabligh)*. During the election campaign the party leadership instructed its activists to intensify their religious activities, to persuade people to accept Islam instead of promoting their party, and to pray to God to help them win the elections. However, five years later, during the 2004 elections, the same leadership body issued a fatwa to its activists and members to mobilise people to vote for the party in the elections, regardless of whether they agreed with the party's political perspectives or not.[15]

Close observation reveals that tensions and frictions between the JT and PKS – as well as inside each of the two – stem from their experiences in democratic political competition. Basically, JT members are PKS members. However, intensive and increasingly systematic and specialised political activities separate PKS activists from other JT members who do not get involved in party organisations. PKS activists are increasingly pragmatic in their behaviour, while JT members are more likely to remain normative.

Inside the PKS, there are divisions between 'office oriented' and 'policy oriented' politicians: the former perceive politics as a competition to maximise power and as a resource that has to be pursued in its own way and with its own rules, while the latter perceive politics as a competition to influence public policies and something that needs to be pursued in accordance with Islamic principles. Furthermore, inside the 'office oriented' camp there are 'pragmatists' who have established networks with former President Suharto's family, the military and Chinese businessmen, and pushed the idea that the party should become an open, secular, political party. There are also 'reformists', who are politically closer to the networks of democratic activists that brought down the Suharto regime and who moved the PKS's political agenda in line with the wider

14 Ibid., 176.
15 Ibid., 213–218.

Indonesian agenda for democratisation. By contrast, among the 'policy oriented' camp there are 'moderates' who accept office-seeking politics as a tolerable short-term strategy, and 'radicals' who perceive politics purely as a struggle to influence policies; they staunchly insist that PKS activists are, in principle, preachers and not politicians.

Meanwhile, within the JT there are differences between 'loyalists' who blindly support the PKS and 'critics' who support the PKS only when it follows JT principles. Furthermore, inside the 'loyalist' camp there are groups of people who are loyal to certain leaders – because of the access and resources these leaders share, or for other more personal reasons – but critical of others. It should be noted that those who are loyal to organisations defend them vehemently from external critics. By contrast, among the 'critical' activists there are those who stayed inside the JT network and criticise the PKS from this position, and those who left the JT network and criticise the PKS as outsiders. The figure on page 35 aims to capture the sub-divisions as described.

The tensions, frictions and divisions are intensely disturbing and unsettling for JT and PKS leaders, and they are desperately seeking ways to overcome them. Two ideas are worth close attention. Firstly, some perceive the problem to be rooted in the separation of the JT and PKS leaderships. The two organisations are basically two sides of the same coin, adhering to the Muslim Brotherhood's motto that the party is the *jamaah* (a community of the faithful), and the jamaah is the party (*al-hizb hiya al-jamaah, wa al-jamaah hiya al-hizb*). However, the two have different rules and patterns of behaviour: the JT follows Islamic principles under the guidance of the supreme leader (*muraqib 'amm*), while the PKS follows the Indonesian political system and competitions led by the party's president. Therefore, the JT and PKS tend to go their different ways. To overcome the problem, it has been suggested that the leaderships should be united and the supreme leader of the JT should assume the position of the party president of the PKS. In this way, there would be a single line of command across both the JT and PKS networks of organisations and this would minimise tensions and frictions.[16]

Secondly, another argument, starting from the same observation, is that the root of the tensions and frictions among the JT and PKS is the incompatibility between the two organisations: JT members are informal and follow their own internally set rules, while the PKS is a political party that must comply with state rules and the political

16 Interview with Yusuf Supendi, Jakarta.

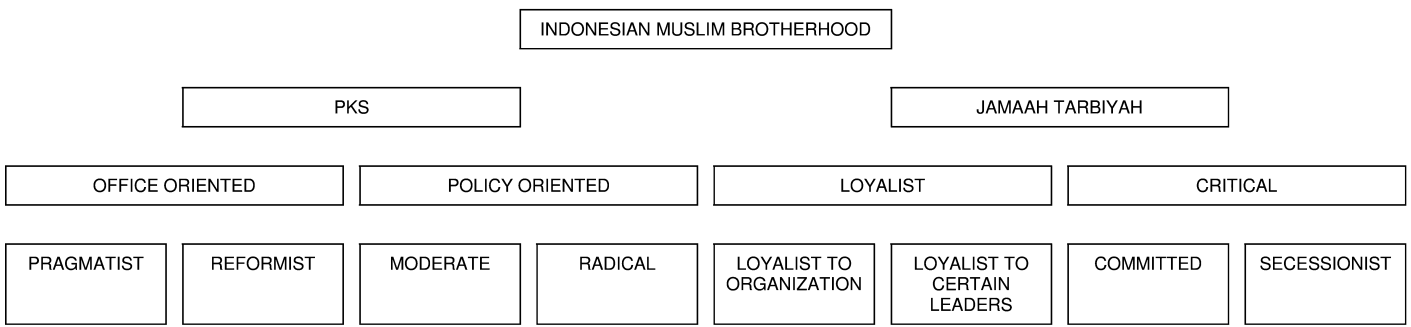

FIGURE 1 *Sub-division of Indonesian Muslim Brotherhood*

reality. However, in contrast to the previous perspective, which proposes leadership unification, this group suggests that the JT and PKS must be separated organisationally. The JT needs to be formalised as a social organisation, registered and bound by state regulations. In this manner, the two organisations – which are in fact composed of the same group of people – can operate in different arenas, the one social the other political, and need not interfere with or disturb each other.[17] In other words, PKS politicians can do their pragmatic political jobs without the worry of being exposed to the scrutiny of JT members.

1.2 Review of the Literature

Researchers and analysts have different attitudes to the internal dynamics of the PKS and Jamaah Tarbiyah. Some deem the current dynamics to be a sign of the party's strength and superiority. Such opinions are commonly held by party functionaries and members. Zulkifliemansyah, a PKS Member of Parliament, has written several articles in this vein. He eloquently argues how the party, which evolved from the dakwah movement, seeks to achieve progressive objectives in democratising Indonesia, without losing its commitment to moral ideals. Yon Machmudi, an academic and PKS founder, explains that the Jamaah Tarbiyah and PKS represent a new generation of Muslim politicians and social activists. It transcends the moderate versus radical dichotomy of Muslim political activists that was typical during the New Order era – the former heavily stressing accommodation, whilst the latter put much weight on purification. The Tarbiyah community overcomes the dilemma of purification and accommodation through non-confrontational gradual Islamisation. This strategy succeeded in attracting followers and sympathisers from both modernist and traditionalist circles of Indonesian Muslims – something that Machmudi argues has never happened before.[18]

Others argued that the internal dynamics reflect the parties' hypocrisy. One widely circulated article of this type is by Sadanand Dhume. In it, he describes the PKS as a radical party actively promoting the Islamisation of Indonesian politics. Although Dhume sees the PKS as a peaceful political

17 Interview with Abu Ridho, Jakarta.

18 See Zulkifliemansyah, 'Overcoming the Fear: PKS and the Democratization', *Jakarta Post* 5 December 2005. 'Prospect for the Justice and Prosperous Party (PKS) and Political Islam', USINDO Open Forum, Washington D.C. 8 June 2006. 'Understanding PKS as Living Entity within Indonesia's Democratic Space', *Jakarta Post* 10 August 2007. Yon Machmudi, *Partai Keadilan Sejahtera: Wajah Baru Islam Politik Indonesia* (Jakarta: Harakatuna, 2005).

organisation that is willing to participate in the democratic political process, he believes that this is merely a facade to conceal its real agenda. He wrote, provocatively, that

> despite the Justice Party's social work, little separates its thinking from Jemaah Islamiyah's. Like Jemaah Islamiyah, in its founding manifesto, the Justice Party called for the creation of an Islamic caliphate. Like Jemaah Islamiyah, it has placed secrecy – facilitated by the cell structure both groups borrowed from the Brotherhood – at the heart of its organisation. Both offer a selective vision of modernity – one in which global science and technology are welcome, but un-Islamic values are shunned. The two groups differ chiefly in their methods: Jemaah Islamiyah is revolutionary; the Justice Party is evolutionary.[19]

Yet others try to capture the complexity and paradox more comprehensively. Martin van Bruinessen wrote that PKS politicians are 'imperfect democrats but perhaps Indonesia's strongest force for democratisation' based on the fact that many of the party's spokesmen believe in anti-Islamic conspiracies, are anti-Zionistic, anti-Western, and have been known to be hostile to liberals and secularist Muslims. At the same time, the PKS

> is one of the very few forces in the political arena that may seriously contribute to a gradual democratisation of the country, as it believes in participation in the existing political system and in changing society through persuasion of individuals rather than through grabbing power.[20]

Likewise, Bubbalo and Fealy wrote that the PKS has some ambivalence towards the West, actively participating in various protests against American support of Israel and the invasion of Iraq, and tends to be suspicious of the political agendas of the EU and US, especially the 'war on terror'. Yet many of its senior figures have a Western tertiary education and visit the West frequently, and their awareness of international developments is probably higher than that of any other Indonesian Islamic party.[21]

19 Sadanand Dhume, 'Radicals March on Indonesia's Future', *Far Eastern Economic Review* 168, no. 5 (2005).

20 Martin van Bruinessen, 'Genealogies of Islamic Radicalism in post-Soeharto Indonesia', *Southeast Asian Research* 10, no. 2 (2007), 117–154.

21 Anthony Bubalo and Greg Fealy, 'Joining the Caravan? The Middle East, Islamism and Indonesia', The Lowy Institute for International Policy paper 05 (Alexandria: Longueville, 2005).

Meanwhile Kees van Dijk explains that the ambiguity visible in PKS political behaviours is a logical consequence of the complexity of the changing political environment in Indonesia. This complexity has created asymmetrical alliances among different political actors and, subsequently, ambiguous behaviours and internal dynamics among political actors seeking to compromise their ideological objectives and political realities. The PKS is distinctly Indonesian in its structures and behaviours.[22]

1.3 A Theoretical Note: A Failing or a Post-Islamism?

Any attempt to explain the developments of a political organisation will face at least two dilemmas. The first is a dilemma between the rational and natural perspectives of an organisation. The rational perspective conceives an organisation primarily as a tool for a group of people to achieve certain – previously set – objectives. Perhaps this is the most widely used definition of an organisation, i.e. that any development and dynamics within the organisation can only be explained in light of the organisation's objectives, because any member of the organisation should act according to the specific tasks and division of labour of that organisation. This implies that the yardstick for measuring or valuing behaviours of the members and dynamics of the organisation are the organisational objectives that are set *a priori*.

The natural perspective of an organisation, however, maintains that in any organisation, as long as there are multiple people there will be multiple objectives being pursued. Consequently, the real objectives of the organisation are never set *a priori*, but rather *a posteriori* following successive problems faced by the organisation. Of course it does have previously set, long-term, objectives, but they are often subordinated or compromised by more immediate and more urgent short-term objectives. And, because there is a plurality of objectives being pursued simultaneously by different members, the real objectives of the organisation are none other than the lowest common denominator, the objective that all members agreed upon, namely the survival of the organisation. Hence, in contrast with the rational perspective, which takes the *a priori* objectives as the yardstick for all members' behaviours and organisational dynamics, the natural perspective puts the highest value on any behaviour and dynamic that guarantees the survival of the organisation.

22 C. van Dijk, 'Different Settings, Different Definitions, and Different Agendas: Islamic and Secular Political Parties in Indonesia and Malaysia', in *Interpreting Islamic Political Parties*, ed. M.A. Mohamed Salih (New York: Palgrave Macmillan, 2009), 51–81.

The second is the dilemma between the collective and selective system of incentives. The former deems that the collective incentives a political organisation gives to its members should be distributed amongst all members equally. The most fundamental of these are identity and solidarity. As politics is about collective goods, not owned by certain groups but available to all, political organisations also promote collective incentives to all of their members. This explains why people join and participate in political organisations without being paid or receiving other material rewards. Meanwhile, the latter system proposes to understand an organisation as an arena in which to pursue personal interests and, therefore, different members will receive different rewards according to their different roles, efforts and achievements. This perspective explains why in political organisations, which are by default voluntary organisations – i.e. people participate not because they are being paid or coerced – members are constantly competing for control of the organisation and for power and resources. This is because different organisational positions provide different authorities that entail different sets of incentives.[23]

Perceived from this perspective, the tensions and frictions within and between the JT and PKS are part of the normal process of organisations seeking to survive in a rapidly changing political environment. However, these developments are interesting in light of current discussions on Islam-based politics. Two theories are relevant at this point: namely, Oliver Roy's thesis on the failure of political Islam, and Asef Bayat's notion of post-Islamism. Roy built his observations on Islam-based politics in Afghanistan. He argues that Islam-based politics failed to accomplish its mission to build a comprehensive Islamic system of life that included an Islamic society and an Islamic state. For him, the failure was due to its circular ideological and political programme, in which proponents of political Islam believe that a true Islamic society can only be built under an Islamic state – which will ensure the enactment and enforcement of Islamic values. Yet, at the same time, a true Islamic state can only be created if politicians uphold and enact Islamic principles, i.e. under an Islamic society. Unable to break this vicious circle, they abandoned the idea of creating an Islamic state and resorted to promoting Islam in terms of private values.[24]

Meanwhile, Asef Bayat, based on his observations of post-revolutionary Iran, found a different feature of political Islam that he calls

23 Angelo Panebianco, *Political Parties: Organization and Power* (Cambridge: Cambridge University Press, 1988), chapter 1.

24 Oliver Roy, *The Failure of Political Islam* (Harvard: Harvard University Press, 1994), 60–68.

'post-Islamism'. He explains that, having gone through a period of political experimentation and of establishing a comprehensive Islamic system of life, political Islam was exhausted by both internal contradictions and external pressures. However, in Bayat's observation, instead of crumbling or giving up its mission, the movement evolved into a new and more open one by adapting to its environment and adopting critiques and questions once directed to it – such as democracy, human rights, gender equality, religious pluralism, etc. – as part of its new mission.[25]

The present research has found that like Roy's thesis, the JT and PKS are ensnared by their circular comprehensive agenda of Islamising the Indonesian society and state. Although on paper the Muslim Brothers' gradual Islamisation agenda adopted by the JT-PKS seems to offer a breakthrough to escape the vicious circle, in reality the circle and its vices remain. It occurs, for example, when JT-PKS members have to decide in which phase of Islamisation they find themselves. Many of them believe they have accomplished the Islamising of society and are now moving on to Islamising the political system. However, there are just as many who believe that they are still in the phase of Islamising the society, and are not yet ready to Islamise the state. Since they all believe that for each phase of Islamisation there are different priorities and different strategies, as well as different leadership compositions, tensions and frictions emerge when they argue about which priorities should be implemented, which strategies should be pursued, and who should be in charge. And when money and power are involved, conflicts and confrontations are inevitable. However, also like what Bayat observed, the JT and PKS have evolved in terms of qualitative development, by adapting into a democratising political system, and adopting new ideas and programmes – formerly foreign to them – into their own. Previously holding the belief that the existing secular democratic (albeit pseudo) system will gradually be replaced by an alternative, comprehensive Islamic system of life, they now see Islam more as a contributing system, which will improve the existing democratic system, making it more religious and humane.

2 Historical Developments and Institutional Settings

This section deals with the historical development of the JT and PKS, starting from their inception and moving on to the contemporary situation. The focus is on the interplay between three factors: the ideas and ideals adopted from the Egyptian Muslim Brothers, the

25 Asef Bayat, 'What Is Post-Islamism', *ISIM Review* 5, no. 16 (2005), 5.

histories and legacies of Islam-based political activism in Indonesia, and the institutional frameworks provided by the dynamics of political competition. This will show how the JT is uniquely Indonesian in character and needs to be assessed in its own context.

Among its unique characteristics, the JT never publicly declared itself to be a branch of the Egyptian Muslim Brothers and it never disclosed its mechanism of relationships with its Egyptian headquarters. This has resulted in different interpretations among observers, as well as among its members. It is unlike other transnational Islam-based organisations such as Hizbut Tahrir, Ahmadiyah, or Jamaah Tabligh, which publicly declare their status and, consequently, the people who join the organisations know that they are part of international networks and under the auspices of their headquarters overseas. Although among JT's top leadership it is clear that their organisation is a local branch of the Egyptian Muslim Brothers and it is bound by their statute, this is not so clear for JT activists and members lower down the hierarchy. Many perceive the JT to be a domestic Islamist organisation, or an organisation only inspired by the Egyptian Muslim Brotherhood.

2.1 Chronological Events

The history of the JT started when four graduates – Hilmy Aminuddin, Salim Segaf al-Jufri, Abdullah Baharmus, Encep Abdusyukur – returned from studying in the Middle East and founded an organisation dedicated to Islamic propagation (dakwah) by adopting the model of the Egyptian Muslim Brothers' organisation, including its organisational structure, recruitment and training. They utilised cell-like groupings, in which one mentor recruits, trains, and supervises five to ten members, and the cell members only know each other; they do not know members of other cells.[26]

Initially, under the leadership of Salim Segaf, the JT recruited only select members. They targeted those who were fluent in Arabic and knowledgeable in Islamic studies, and therefore they remained a limited and a small group. Later, when Salim Segaf went to continue his studies in Saudi Arabia, the leadership of the organisation was handed over to

26 Some speculate that MB founder Hassan al-Banna adopted the organisational structure of Mussolini's facist army: see Francis Fukuyama and Nadav Samin, 'Can Any Good Come of Radical Islam?', *Commentary Magazine*, September 2002. Others say it refers to the Sufi tradition of which al-Banna had been a member. See Ibrahim M. Abu Rabi, *Intellectual Origins of Islamic Resurgence in the Modern Arab World* (Albany: State University of New York Press, 1996), 67.

Hilmy Aminuddin. In contrast to Salim Segaf, Hilmy Aminuddin decided to simplify the recruitment requirements and targeted students of secular universities. In this way, the JT succeeded in extensively recruiting new members and expanded its branches to various major cities across the country.[27]

By the late 1980s, the JT had established a stronghold in many major cities. In Jakarta and Bogor it established a network of institutions: *Nurul Fikri* (Arabic, lit. illumination of ideas), study groups assisted high school students in their studies but were used by JT activists to recruit members; *Sabili* (Arabic, lit. my way), a magazine promoting Islamic teachings to the public, especially to the young led by Rahmat Abdullah; *Khairul Ummah* (Arabic, lit. the best community), a dakwah group led by Yusuf Supendi; *Al-Hikmah* (Arabic, lit. wisdom), an Islamic boarding school led by Abdul Hasib Hasan; and 'Studies and Information on Contemporary Islamic World', a study group that distributes information about international politics and conflicts, especially in Palestine and Afghanistan, led by Abu Ridho and Almuzammil Yusuf.[28]

During the 1990s, the JT had stable networks in many universities in major cities across the country, and it started taking over intra-curricular and extra-curricular student organisations. From the North Sumatra University in Medan, North Sumatra, to the Indonesian University in Jakarta, Bogor Institute of Agriculture in nearby Bogor, Bandung Institute of Technology in Bandung, Gadjah Mada University in Yogyakarta, Sepuluh November Institute of Technology in Surabaya and Brawijaya University in Malang, down to the Hassanuddin University in Makassar South Sulawesi, the top leadership and activists among all their students were JT members.

During the months of crises ahead of the regime change in the mid-1990s, when Indonesian Islam-based political activism under the umbrella of the ICMI (Indonesian Muslim Intellectual Association)[29] was active in mobilising issues and support, JT students' networks established KAMMI, facilitated by ICMI networks and led by Fahri Hamzah. Subsequently, this organisation would supply many of the JT and PKS

27 Arief Munandar, *Antara Jemaah Dan Partai Politik: Dinamika Habitus Kader Partai Keadilan Sejahtera (PKS) Dalam Arena Politik Indonesia Pasca Pemilu 2004*, PhD dissertation, The University of Indonesia, 246.

28 Ali Said Damanik, *Fenomena Partai Keadilan: Transformasi 20 Tahun Gerakan Tarbiyah di Indonesia* (Jakarta: Teraju, 2002), 139–175.

29 ICMI was founded in 1990 under the patronage of former President B.J. Habibie – then Minister of Research and Technology – and played a bridging role between the Suharto regime and Islam-based politics.

leadership. When Suharto eventually stepped down and a new democratic government was formed, followed by the opening-up of the political system, JT activists discussed whether they should take the chance to participate in the competition for power. Opinion was split among JT's central leadership, and so they decided to hold a vote. More than 6,000 questionnaires were distributed within their networks with three options: joining the political competition by creating a political party, joining with another, existing political party, or remaining non-political but going public. Fifty-six per cent of the votes returned were for the first option.

A political party called Partai Keadilan was established in 1998. During the 1999 elections it garnered 1.7 per cent of the national vote and failed to pass the electoral threshold required by law to allow a party to participate in the next elections. With only seven seats in Parliament it merged with Amien Rais' PAN, joining forces to push for new amendments to the constitution that would prevent the military from returning to power. During the short-lived Abdurrahman Wahid presidency, the PK received one ministerial post (forestry), but this did not last long as the minister was sacked by President Wahid for arresting and bringing to trial powerful businessmen for illegal logging, in fear of political retaliation by their business network. During Megawati's presidency, she offered the PK another ministerial post, but the party declined, on the ground that it rejected a female president, and she was perceived as being supported by secular and Christian politicians.

To be able to continue its participation in politics, the JT needed to establish a new political party. It did so in 2003 and founded Partai Keadilan Sejahtera, using PK's organisational networks and leadership. In the 2004 elections it surprisingly tripled its share of the vote to 7.3 per cent, and secured 45 seats in Parliament. In return for supporting Susilo Bambang Yudhoyono's presidential candidacy it received three ministerial posts: housing, agriculture, and youth and sport. In the 2009 elections it won 7.8 per cent of the vote, collected 57 parliamentary seats and became the biggest Islam-based political party. It also received four ministers: Science and Technology, Agriculture, Information and Communication, and Social Affairs. Interestingly, although its percentage increased, the actual votes the party collected decreased from 8,325,020 votes in 2004 to 8,206,955 in 2009.

2.2 Legacy of Domestic Islam-based Political Activism

A closer observation, however, reveals that the history of the JT did not start at its foundation, and its history did not emerge out of the blue.

When the JT was created in the early 1980s, there were already networks of dakwah activists and organisations spanning across the major cities in the country, and especially among young academics. This network organised regular recruitment and training sessions for activists, and established centres in – or near – campus mosques in various cities such as Jakarta, Bogor, Bandung, Yogyakarta, Surabaya, Malang, Palembang, Lampung, Padang, and Makassar.[30]

This network of activism dated back to 1968 when DDII organised training sessions called *Latihan Mujahid Dakwah* (LMD, or Dakwah Fighters Training) in Jakarta for young Muslim activists. Well-known figures involved in this training included former Masyumi politicians such as Natsir, Roem, and former Minister of Religious Affairs Mukti Ali, while the participants included Imaduddin Abdurrahim, Amien Rais, Kutowijoyo, Abu Ridho and Mashadi. The last two went on to become senior JT activists.[31]

From 1974 onward, alumni of the LMD started to spread to various campuses, with two of these locations rising to particular prominence. The first was the Salman[32] mosque of the Bandung Institute of Technology (ITB) where Imaduddin Abdurrahim established a series of training sessions called *Latihan Hidup Islami* (LHI, or Islamic Life Training) to promote an Islamic way of life among students and the public. The second was the Shalahuddin mosque of Gadjahmada University in Yogyakarta, under the leadership of Amien Rais. Here they established a Salahuddin[33] community that organised lectures and discussions on Islam. From these two institutions younger generations of dakwah activists emerged who later became JT leaders, such as Hidayat Nur Wahid, Mutamimul Ula, Untung Wahono, Tifatul Sembiring, Tjahjadi Takariawan, amongst others.[34]

2.3 Institutional Frameworks for Political Competition

Another factor that contributed to the unique trajectory of JT's historical development is the political institutions that have regulated political

30 A.M. Luthfi, 'Gerakan Dakwah di Indonesia', in Jimly Ashidiqy et al., *Bang Imad: Pemikiran dan Gerakan Dakwahnya* (Solo: Gema Insani Press, 2002), 158–166.

31 Ibid.

32 The name refers to Salman Al-Farisi, the Prophet Muhammad's companion who is regarded as his best military strategist.

33 It refers to a Kurdish Muslim general during the Crusades, Salahuddin Al-Ayyubi (1138–1193).

34 Ibid.

competitions in Indonesia in the last five decades. These institutional settings are characterised by a complex triangular antagonism and an alliance between the Suharto regime, the military and Islam-based politics.

The first institutional setting faced by Islam-based political actors was the refusal by the newly founded New Order regime in the mid-1960s to revive the banned Masyumi party as well as the return to politics of ex-Masyumi leaders. In this setting the antagonism was between the Suharto regime, backed by the military, and Islam-based politics. The situation forced Islam-based politics to split their resources: on the one hand, they relied on younger politicians to get involved in political competitions through the newly created Parmusi party; on the other hand, the ex-Masyumi politicians created the non-political Indonesian Islamic Dakwah Council (DDII). It was the DDII that started a systematic synthesis of religious propagation and political activism, and spread it among secular university students.

The second institutional setting was Law No. 3/1975, which forced all Islam-based and Muslim-based political actors to fuse into a single party named the United Development Party (PPP), while the other parties were lumped into the Indonesian Democratic Party (PDI). In this setting, the antagonism was between the Suharto regime and Islam-based politics and other political parties, whereas the military suffered an internal fracture between Suharto aides and his critics and stayed aloof. Meanwhile, complexity increased in internal Islam-based politics as the fusion combined two bitter rivals, the traditionalist and modernist groups. This political ordeal in the mid-1970s brought university students into the limelight as they were involved in riots in Jakarta in January 1974. This urged the regime to react by issuing a law that prohibited students from engaging in political activities, known as the Normalization of Campuses' Life/Student Coordination Body (NKK/BKK), issued in May 1978. On the one hand, this succeeded in suppressing student political activism. Instead of discouraging, however, this policy further intensified student political radicalism. In fact, it was under such a political atmosphere that senior members of the JT and PKS matured during the late 1970s and early 1980s.[35]

The third institutional setting was the regime's move to mobilise former Darul Islam rebels in a pretext to intercept the return of the

35 Adam Johnson and Jonathan Paris, eds., *The Politics of Post Suharto Indonesia* (New York: Council of Foreign Relations, 1999), 33–35. Damien Kingsbury, *The Politics of Indonesia* (Oxford: Oxford University Press, 2002), 84–86.

communists.[36] The revived DI networks subsequently developed an ambiguous relationship towards the regime that revived them, and its 'evil twin', Islam-based politics. It was during this period that Hilmy Aminuddin, the son of a high ranking DI leader, Danu Mohammad Hassan, emerged among DI detainees. He served three years in military detention and was released without charge. This history created a dark side to the JT-PKS history, because many Islam-based activists accused Hilmy of being co-opted by the military or the intelligence service. JT-PKS rejected the allegation by pointing to the fact that Hilmy was released without charge.[37]

The fourth institutional setting was the political laws known as the package of five laws, one of which – Law No. 8/1985 – stipulated the mandatory adoption of the state ideology, Pancasila, as the sole basis for all organisations. This setting drew a complex political constellation: on one side, there was the bitterest antagonism between the regime and Islam-based politics; on the other side, the regime was also in conflict with the joint forces of a group of retired military generals, ex-Masyumi politicians, and social activists, known as 'Petition 50'. On yet another side, the military suffered a further split between Suharto loyalists, under Vice President Lt. Gen. Sudharmono, and professional soldiers under Chief Commander Gen. Benny Moerdani resenting the growing Suharto family businesses.[38] The mandatory adoption of Pancasila as the sole ideology intensified radical tensions among Islam-based organisations. Indeed, many of them went clandestine – rejecting the law and preferring illegal status – including the Indonesian Islamic Students (PII)[39] and a faction of the Islamic Student Association (HMI), known as the 'MPO faction.'

36 The revival of the former DI combatants was conducted by Ali Moertopo, then Suharto's personal assistant, against the will of the commander of the State Intelligence Coordination Agency (Badan Koordinasi Intelejen Negara, BAKIN) Sutopo Yuwono. Moertopo insisted that he had personal approval from Suharto: see Heru Cahyono, *Pangkopkamtib Jenderal Soemitro dan Peristiwa 15 Januari '74* (Jakarta: Sinar Harapan, 1998), 167. Asvi Warman Adam, *Menguak Misteri Sejarah* (Jakarta: Kompas, 2010), 222–226.

37 Yon Machmudi, *Islamising Indonesia: The Rise of Jemaah Tarbiyah and The Prosperous Justice Party* (Canberra: ANU E Press, 2008), 93–94.

38 Jun Honna, 'Military Ideology in Response to Democratic Pressure during the Late Suharto Era: Political and Institutional Contexts', *Indonesia* 67 (1999), 77–126.

39 The PII was founded in 1947, and was an influential network because many of its activists became notable figures in Indonesian social and political organisations, until it went clandestine in 1985 when it rejected the adoption of Pancasila as the sole ideology. It was among the few organisations membership of which included students of secondary and higher education institutions.

Many of the top activists of these clandestine Islam-based organizations subsequently joined the JT and later on the PKS, including Mutamimul Ula (former PII national chairman), Tamsil Linrung and Nur Sanita Nasution (HMI-MPO).

The fifth institutional setting was the sour relations between Suharto and the military, which pushed the former president to form an alliance with Islam-based politics. This setting created a new and complicated platform of political constellations, in which every camp suffered internal fractures: the regime was split between pro- and anti-democratisation; Islam-based politics was split in two directions, i.e. between pro- and anti-Suharto, and between pro- and anti-democracy; the military was also split in two directions, i.e. between the Islam-leaning camp (green soldiers) and the secular-leaning and Christian (the red soldiers) factions, and between those who were anti- and pro-democratisation. It was this complicated political constellation that gave PKS politicians first-hand experience that politics was never simple and black-and-white, as was understood by JT members. It was from this moment on that PKS politicians – and in fact many other Islam-based politicians – learned about strategic alliances based on similar political interests, set aside political ideology, and went on to form a faction known as the pragmatists.[40]

3 Ideology, Organisation, Factionalism

This section explores the internal structures of the JT and PKS, as well as the relationships between the two, in terms of both organisation and leadership. In principle, these organisations constitute two sides of the same coin, following the MB's principle, 'the community is the party, and the party is the community'. However, since the two organisations operate in different arenas, the one political and the other social, and are governed under different regulations, they have inevitably developed different sets of rules and procedures that sometimes are not compatible with each other: the JT is a social religious organisation that operates under the principles of personal ethics and piety, while the PKS engages in political power struggles and mostly operates under the principles of programmatic achievements and accountability. Consequently, the two often clash with each other.

40 R. William Liddle, 'The Islamic Turn in Indonesia: A Political Explanation', *The Journal of Asian Studies* 55, no. 3 (1996), 613–634.

3.1 The Politics of Gradual Islamisation

As an offshoot of the Egyptian Muslim Brotherhood, the JT has adopted its ideology, political programmes and organisational structures. Ideologically, the JT follows an ideal of 'gradual Islamisation': moving in phases from Islamising individuals, to Islamising families, to Islamising society, and then Islamising the polity.[41] For JT members, this evolutionary programme is not only ideal, but also logical in that it follows the logic of societal development: by Islamising individuals it would be easier to move towards injecting Islam into families as the smallest social units. And, once families live under Islamic teachings, then society will move to uphold Islamic values and cultures. Finally, if Islamic norms become public norms, then the emergence of an Islamic political system is just a matter of time.[42]

This form of gradual Islamisation also represents the moderateness of the Muslim Brotherhood movement, which is a peaceful Islam-based movement, and cannot be linked to radical Islam-based movements and organisations. JT activists are keen to put forward this argument, as the Muslim Brotherhood is continuously being labelled and interpreted, by foreign as well as domestic writers, as a radical and revolutionary movement, and the implicit implication being that the JT and PKS, as its derivatives, are likely to follow the same path. Furthermore, in the context of the Indonesian Islam-based movement, the gradual Islamisation programme of the Muslim Brotherhood exemplifies a breakthrough that transcends the antagonism as well as the failures of radical movements such as Laskar Jihad or the FPI and accommodative movements such as Muhammadiyah and the NU. This is a new trend among Indonesian Muslims that has given rise to a new type of *santri*.[43] Abdi Sumaithi – a.k.a. Abu Ridho – explained that such gradual steps of preaching Islam was the method implemented by the Prophet Muhammad. He started by persuading individuals to follow Islam, and then internalise Islamic

41 The original concept of gradual reforms (*islah*) from Muslim Brotherhood founder Hassan al-Banna runs as follows: reforming individuals (*islah al-nafs*), reforming Muslim families (*islah al-bait al-Muslim*), reforming society (*islah al-mujtama'*), national independence (*tahrir al-wathan*), reforming the government (*islah al-hukumah*), and international prominence and international expansions. See Fathi Yakan, *Revolusi Hassan Al-Banna: Dari Sayyid Qutub hingga Rasyid Al-Ganusyi*, trans. Fauzun Jamal and Alimin (Bandung: Harakah, 2002), 12–13.

42 Interview with Khalid Machmud, 19 April 2007.

43 Interview with Yon Machmudi, a PKS founder and lecturer at the University of Indonesia.

values and behaviours through Muslim families, which would then externalise into Islamising social structures and customs. After Islam became the framework of society the Prophet would establish a political system, a state, followed by the international expansion of Islam to other countries.[44]

Another typical ideological trait of the Muslim Brotherhood which the JT has adopted is concern and enthusiasm for international conflicts involving Muslims, especially Palestine-related issues. This internationalism serves several functions for JT members. Firstly, it provides an ideological foundation for the JT, as part of the Muslim Brotherhood network, to struggle for Islam and Muslims and to fight against the enemies of Islam – especially the Jews. For them, the Jewish people always pose trouble for Muslims, and they – out of fear and hatred towards Islamic prominence – have been involved in the downfall of all major Islamic empires, from the conquering of the Umayyad dynasty by the Mongols to the abolition of the Ottoman Empire by Atatürk.[45] Secondly, international issues are very useful for attracting new recruits, especially among students. Thirdly, they are also a strong issue for attracting public attention and sympathies.

From this gradual programme, the JT also adopts evolutionary political strategies, known as the 'stages of dakwah': the first stage is 'foundation' (*tanzim*) in which JT activists start to explore Islamic political programmes and research the social and political environments in which they operate. The second is socialisation (*sha'bi*) in which they start to socialise their political programmes and recruit and train members. The third is institutionalisation of their resources (*mu'assasi*), during which they encourage JT members to pursue careers in diverse professional occupations (public, private and voluntary), utilising networks of alumni from major universities, and achieving positions in their respective vocations in order to extract resources to support JT programmes. The last is participation in power struggles through political competitions (*daulah*), during which they become involved in political competitions, assume public office and implement policies.[46]

JT activists believe that the first and second stages were passed through during the 1980s, when the organisations carried out underground activities formulating strategies, recruiting and training members and

44 Interview with Abu Ridho, Jakarta.

45 Interview with Yusuf Supendi, Jakarta.

46 Yon Machmudi, 'Islamizing Indonesia', (Canberra: ANU E Press, 2008), 177–186. Anis Matta, *Menikmati Demokrasi: Strategi Dakwah Menikmati Kemenangan* (Jakarta: Pustaka Saksi, 2002), 9–11.

activists. The third stage came during the 1990s, and when the political environment became more conducive they started to go public, ran various institutions, while their members advanced their careers in various professional jobs. Finally, the fourth stage was entered from 1998 when they established a political party, participated in elections, held government office and implemented public policies.[47]

3.2 Key Ideological Issues

3.2.1 *Islamic State*

The PKS, following the Egyptian Muslim Brotherhood, does not have a specific blueprint concept of what kind of state or political system there should be. This is in contrast to Hizbut Tahrir, which seeks to revive a universal Islamic caliphate, or Jemaah Islamiyah under Abu Bakar Ba'asyir, that seeks to create a Southeast Asian alliance of Islamic governments.[48] In fact, just like those radical movements, the PKS believes that Islam is a comprehensive system of life that should be enacted in the individual, societal and political spheres. However, for the PKS, what makes those spheres Islamic are not the structures, but rather the behaviours of individuals within them. An Islamic society is a society where its people behave according to Islamic teachings, while the structure of the society can be modern, traditional or tribal. An Islamic society is where Muslims enact Islamic rituals regularly, Islamic values – dress codes, cuisines – become norms in public life, and crimes and immorality are minimised or altogether absent.

Likewise, an Islamic political system is not confined to a universal caliphate, but can be a kingdom or a republic, as long as it follows Islamic principles. For the PKS, people live in a society and the state is a means to improve that society. Thus, the state serves as a supporting factor to create an Islamic society – an *ummah*. It is a structure that provides rules and regulations by which people should live, and it has the authority to enforce them, and to punish transgressions. An Islamic state is a political system that is capable of enacting Islamic principles in society.[49] The PKS also believes that Indonesia is a fundamentally Islamic state because it accommodates religion as part of state and government affairs. Pancasila, as Indonesian state ideology, was formulated by Muslim politicians, and

47 M. Aay Furqon, *Partai Keadilan Sejahtera: Ideologi dan Praksis Politik Kaum Muda Muslim Indonesia* (Bandung: Teraju, 2004), 124.

48 Sidney Jones, 'Al-Qaeda in Southeast Asia: The case of the "Ngruki Network" in Indonesia', *ICG Indonesia Briefing*, 8 August 2002, no. 14, 693–617.

49 Interview with Untung Wahono, Jakarta.

it represents the spirit of Islamic teachings in political life. The problem for the PKS is that Indonesian administrations have not implemented Pancasila comprehensively, because the rulers do not have a commitment to Islamic principles. Only if political leaders and government officials, who are mostly Muslims, have a personal commitment to Islamic values, can Pancasila be applied comprehensively.

The PKS accepts a democratic system on two grounds: firstly, democracy is a flexible system; it can be socialist or capitalist, a monarchy or republic, secular or religious. Political consultation as the basic principle of democracy is perfectly in line with Islamic teachings. Secondly, democracy is a political reality in Indonesia – and internationally – and therefore it should be taken as a starting point for building an Islamic political system. Politics is a means to propagate religion (dakwah), and it – as the term Tarbiyah implies – aims at changing people and improving their conditions. Thus, dakwah activities, including those in politics, should start from comprehension and acceptance of reality, and not a denial of it.[50]

3.2.2 *Religious Pluralism*

For the JT-PKS, Islam is the ultimate and universal truth that must be propagated to all humankind wherever and whoever they are. It is mandatory for all Muslims to preach their religion according to their capacity and opportunity. However, Islamic propagation should focus on achieving benefits and avoid loss and risks. In a societal and political context, this means that dakwah activities should be carried out in ways that avoid conflicts and instabilities – which will not only harm society, but also give a negative image of Islam and Muslims. Indonesia is a democratic and religious country, in which the constitution sanctions freedom of religion. This means that Indonesian people are free to live according to their faith. Religious pluralism does not entail an acknowledgement that all religions are the same, but refers to a condition in which people can profess and express their religious beliefs. Therefore, for the PKS it is not religious pluralism, but rather a pluralism of religions, meaning that Indonesians live in a country that recognises different religions. This does not abolish the obligation for all Muslims to propagate Islam. Islam must be propagated, but in a peaceful way.

There are, in fact, two different pluralisms, external and internal. External pluralism means coexistence and tolerance towards other religions, while internal pluralism is understanding and cooperation with other Muslims from different traditions. With regard to external

50 Interview with Abu Ridho, Jakarta.

pluralism, the PKS shows a tolerant attitude towards other religions, while in relation to internal pluralism it also shows tolerance towards other Muslim groups as long as there is no question of doctrinal heresy or political interests. There are two cases worth special attention. Firstly, the Ahmadiyah controversy that sparked deadly violence against the members of a minority group. In this case, PKS politicians urged the government authorities to act firmly to prevent any violent acts, yet at the same time they also urged the government to disqualify Ahmadiyah as an Islamic group. A study by Bastiaan Scherpen in this volume maps the political attitudes of Indonesian Islamic social and political organisations on the issue of Ahmadiyah, and the PKS shows a harsh and conservative attitude. The PKS also reportedly expelled a member who converted to Shi'ism and took care of his wife who decided to divorce him following his decision.[51] Secondly, the JT-PKS also shows a changing attitude towards other Islamic organisations. In the past, it has aggressively recruited and mobilised members of other Islamic organisations, as well as infiltrated and taken over religious forums and mosques belonging to other organisations. Research by Syaifuddin Zuhri reveals a sensitive example of how the party took over Muhammadiyah's mosque in Yogyakarta, taking advantage of an earthquake disaster.[52] However, after major organisations such as the Muhammadiyah and NU reacted officially by issuing statements and policies criticising the PKS, the party responded by issuing clarifications and instructions to its members to maintain harmony and brotherhood with other Islamic organisations.[53]

3.2.3 *Gender Equality*

Gender equality is an extremely sensitive issue in the JT-PKS, and they treat it cautiously. Basically, the PKS upholds a rather misogynist idea of gender, which believes that men are superior to women. The party's Sharia Council issued a statement on the participation of women in politics, specifying that men and women have a different set of obligations and rights, and women's participation in political life is allowed as long as it is deemed appropriate. Interestingly, the statement specifically listed inappropriate conduct that women in politics should avoid, such as dressing too smartly, wearing too much perfume and speaking in a

51 Arief Munandar, 'Antara Jamaah dan Partai Politik', 217.

52 See Syaifuddin Zuhri's contribution to this volume.

53 Triono Wahyu Sudibyo, 'Kampanye di Semarang, Hidayat Klarifikasi PKS Anti Maulid', 28 March 2009, http://news.detik.com/read/2009/03/28/175913/1106503/700/kampanye-di-semarang-hidayat-klarifikasi-pks-anti-maulid?nd992203605.

seductive voice – as if the Sharia Council was so worried that PKS female politicians were unable to understand what was inappropriate conduct by using their common sense.[54] The misogynist understanding of gender relations in the PKS is also obvious from the fact that many PKS leaders from different factions – from radical and conservative to pragmatic and liberal – practise polygamy.

There are female PKS politicians who have earned a good reputation in politics, such as Nur Sanita Nasution, the late Yoyoh Yusroh, and Ledia Hanifa. They support the interpretation that there are different obligations and rights between men and women, but that the two sexes are equal, i.e. that men and women have equal status before God, state and society. Yet, since they have different biological and psychological natures, they have different roles, both in private and in public life.[55] A number of women have tried to initiate a more progressive understanding, but the unfortunate consequence was that they were expelled from the party structure for their efforts.[56]

The PKS provides relatively open opportunities for women, and women politicians and activists participate in every section of the party structure. Women were among the original founders of the party (five out of 50), and the party allocates seats for women in every organisational structure. In the powerful Deliberation Assembly, ten out of 100 members are women; in the Party Advisory Board three members are women; there are even two women members of the Sharia Council – something very unusual for Islamic organisations. In addition, the PKS also has a special department for women, which deals specifically with women's issues.[57]

The PKS also put forward a significant number of female candidates in the parliamentary elections. During the 2004 elections it had 446 female candidates for national, provincial and district/mayoral legislatures and all of them passed the qualification requirements, although there is no further information on how many of them were actually elected as members of Parliament. In comparison, the female candidates of other Muslim parties were as follows: PPP – 497 candidates; PKB – 551 candidates; PAN – 554 candidates, and PBB – 372 candidates. With regard to the recommended 30 per cent quota for female candidates the PKS did even better, and fulfilled the quota in 65 electoral regions (*Daerah Pemilihan*). This was the highest number compared to other parties: the PAN and PKB managed to achieve this in 45 regions, the PBB in 42 regions

54 Permata, 'Islamist Party and Democratic Participation'.
55 Interview with Nur Sanita, Jakarta.
56 Interview with Arief Munandar.
57 Interview with PKS member of Parliament Yoyoh Yusroh, 21 June 2007.

Cover of VCD used for campaigning by the PKS in the run up to the 2004 general elections

and the PPP in only 30 electoral regions.[58] In the national legislatures, the PKS had one female out of seven MPs (14 per cent) during the 1999–2004 period. In the period of 2004–2009 the PKS had more female Members of Parliament, but their percentage was lower, i.e. three out of 45 (6 per cent).[59]

58 See *Republika*, 29 January 2004.

59 Interview with PKS member of Parliament Yoyoh Yusroh, 21 June 2007.

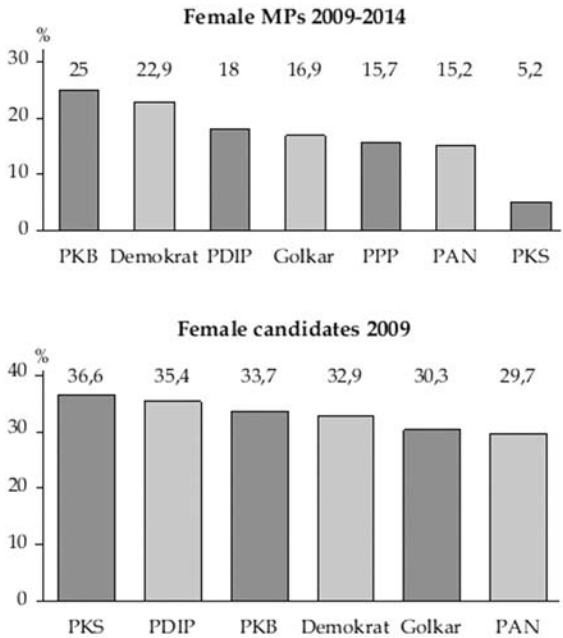

FIGURE 2 *Female MPs (2009–2014) and candidates (2009) in the Indonesian Parliament*

In the general election of 2009, the PKS had the highest number of female candidates for national legislators among major parties – 212 out of 579 or 36.1 per cent. However, when it came to the number of candidates who were elected in the 2009–2014 Parliament, the party experienced the lowest number – three out of 57 or only 5.2 per cent. This discloses the reality of the situation of women politicians in the party who suffer from a paradox: on the one hand, at a personal level, female leaders and activists of the PKS have a high level of education and skills and have played substantial roles in contributing to the party's achievements. On the other hand, at an institutional level, they have limited opportunities both to advance their careers and to be acknowledged for their contributions.[60]

3.3 Asymmetrical Organisations

Until 1998, the JT was organised as a secretive movement, imitating the Egyptian Muslim Brotherhood, with a supreme leader at the top holding religious as well as organisational authority. He was assisted by deputies with different tasks. The JT supreme leader came under the auspices of

60 Permata, "The Prosperous Justice Party," 36–37.

and was in consultation with the supreme leader of the Egyptian Muslim Brotherhood, especially in matters regarding organisational procedures and political strategies. However, he was not under the direction of the foreign authority. There are coordinative forums for regional as well as international Muslim Brotherhood networks. The networks also use the hajj pilgrimage to coordinate with each other and consult with the Egyptian headquarters.[61]

Under this centralistic leadership, the JT organises recruitments and indoctrination training through cell-like networks of activists, known as *usroh* groups, which consist of five to 12 participants supervised by a mentor. In many cases, members of a cell do not reveal to members of other cells who their mentor is. On their part, the mentors form further cells, etc. There are regular activities conducted by the groups; the first is a weekly meeting (*liqo*), in which members of cells meet with their mentor to learn and discuss religious subjects, mostly theology and prophetic history. The second is a monthly gathering (*mabit*) in which cell members spend a night in a mosque, to offer night prayers and hold in-depth discussions on certain topics with their mentors. The third is a gathering (*daurah*) in which larger numbers of participants gather and invite potential recruits, usually under cover of student events in schools and campuses. The fourth is travelling (*rihlah*) in which a large number of JT activists, accompanied by their families, travel to tourism sites to socialise with each other in a more informal way. The fifth is outbound (*mukhayam*), during which a group of JT members spends several days out of town for physical exercise and to learn survival skills.[62]

Among JT members there are formal as well as informal structures. Formal structures regulate how members interact with each other, based on seniority in joining the organisation as well as their position in the organisation. As the organisation is composed of ramified *usroh* cells, networks of mentors and students, on paper each member will have certain relations with other members in terms of seniority. Informal structures, meanwhile, deal with non-structural factors that affect the way members interact or behave towards certain members. Commonly, they differentiate between people who are trained in Islamic studies and those who have a secular educational background. Among those who hold degrees in Islamic studies, the highest and most respected are those scholars of Islamic law (Sharia), followed by theological studies (*usul al-din*), and other Islamic studies (education, history, Arabic etc). Meanwhile, there are also degrees of seniority among those with secular

61 Interview with Yusuf Supendi, Jakarta.

62 Permata, 'Islamist Party and Democratic Participation', 99.

education. Hard science scholars are highest in status, followed by scholars with a background in social and cultural sciences.[63]

Since 1998, when the JT established a political party, the organisational structures of the JT have blended with those of the PKS. During 1998–2003, the highest decision-making body was the National Assembly, which holds the authority to draft and amend statutes, to elect the chairman of the Shura Assembly, and to select chairmen and functionaries for the Advisory Council, the Shariah Council, and the party's central leadership. The Shura (or Deliberation) Assembly had 99 members, 65 of whom were elected proportionally from 33 provinces based on the approximate numbers of JT members of each province, plus as two special members the current and former Assembly chairmen (Hilmy Aminuddin and Salim Segaf Al-Jufri), and 32 additional members who were selected by the Assembly based on professional expertise.

In 2003, however, under the banner of the PKS, the highest decision-making body moved to the Shura Assembly, thus giving the supreme leader – as the chairman – near-absolute authority. Although the National Assembly still holds the right to draft and amend statutes, and to elect the chairman and members of the Shura Assembly, it is in the hands of the Shura Assembly to decide where, when and how the National Assembly should be held. This change represents what political scientists call 'oligarchy'; that is, the shifting of the highest authority from the hands of the members into the hands of the elite. The reason commonly put forward by JT and PKS leaders for this shift is that it simplifies the decision-making process.[64]

The new structures also create complexities as they blend JT organisational rules, which follow Islamic principles, and PKS organisational rules, which follow the national party system and the logic of political competition. As a consequence, what commonly happens is that most decisions are taken with political considerations but stated, communicated and explained using religious terminology. Party leaders need to communicate with their members using religious language, while at the same time they have to make public statements using rational language. It also explains the party's ambiguous behaviour and its sometimes double standards. During national and especially regional elections, the PKS always issues official statements about why it nominates certain candidates using Islamic criteria, while there are many media reports purporting to show how those decisions are made based purely on political deals.[65]

63 Interview with Arief Munandar, Jakarta.
64 Permata, 'Islamist Party and Democratic Participation', 187.
65 *Tempo*, 26 August 2012.

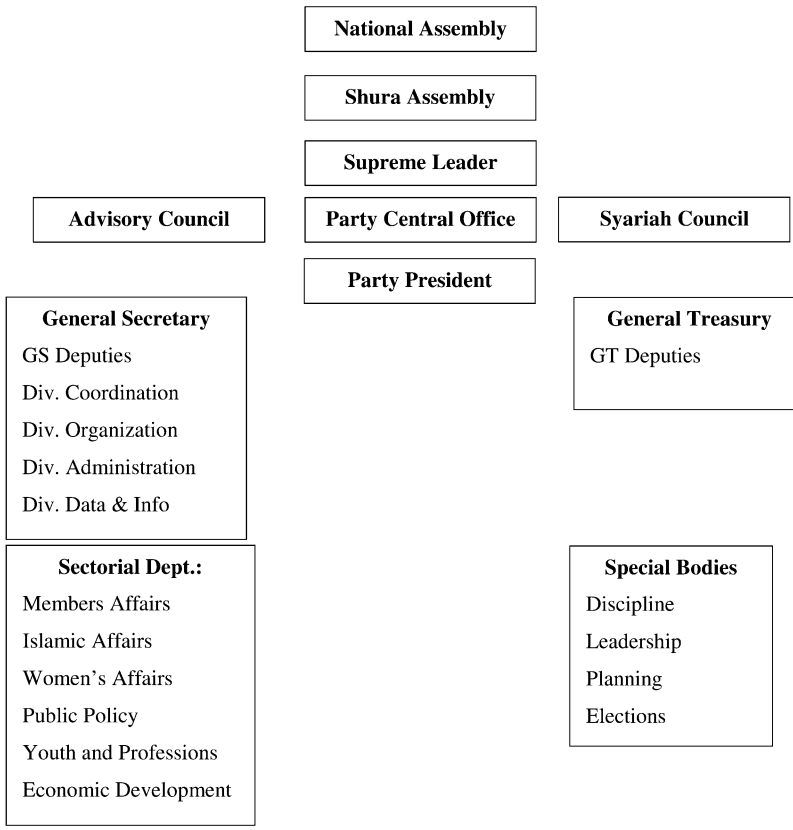

FIGURE 3 *Organisational structure of the* PKS

The powerful position of the supreme leader generates its own problems, as it creates an alternative authority and loyalty for party leaders and members. The authority enables him to bypass organisational procedures that split the party machinery between loyalty to the organisation and to the supreme leader. The most infamous case is the dominant position enjoyed by the party's general-secretary, Anis Matta, who not only held the position for three terms because of his closeness to the supreme leader, but even dared to take on more terms as party president. For example, he engineered the resignation of the party president, Hidayat Nur Wahid (PKS president 2003–2005), in 2005, under the auspices of the Shura Assembly.[66] He also defied Tifatul Sembiring (PKS president 2003–2005), ahead in the 2009 election, when he unilaterally established an ad hoc 'National Election Winning Team' headed by himself while

66 Interview with Yusuf Supendi, Jakarta.

the party president took his seat only as a regular member – though this team did not perform well, as many of its members sided with Sembiring.[67]

It is this unsolved structural asymmetry that eventually created irreparable fractures within the JT and PKS. To keep the organisation running well, the JT leadership has to follow two incompatible rules of the game: the one subjective and symbolic, the other objective and tangible. This has created double standards for the party: on the one hand, it takes decisions based on rational political calculations of cost-benefit risks, while at the same time it maintains the use of religious language – commonly backed up by quotations from the Qur'an and Prophetic Traditions – to communicate them, especially to their members.

Three cases will suffice to show how this dilemma manifests itself. The first was the 2004 presidential election, when the party was split between supporters of Amien Rais, a democratic leading figure with high Islamic credentials but a poor chance of winning, and supporters of the former army commander Wiranto, a secular pro-Suharto candidate with a greater chance of success. What actually occurred was rivalry between Hilmy Aminuddin (the supreme leader), who had a political deal with Wiranto, and Hidayat Nur Wahid (the party president), who was committed to supporting Amien Rais. Yet both of them tailored religious arguments to support their choices. The second example was the 2008 PKS national congress, held in Bali, at which it was proposed that the party should drop its exclusively Islamist ideology and declare itself an 'open party'. The supreme leader and party general secretary endorsed this idea, while the party president (Tifatul Sembiring) rejected it. The arguments were again tailored to religious debates. Yet, in fact, the leadership disagreed about the best strategy for the 2009 elections: whether to stay in a narrow niche of conservative Muslim voters or to move into the wider share of plural voters. The third case involved a fatwa issued by the PKS Shariah Council of Solo, Central Java, in 2010, on the legality of electing a Christian as a political leader, in order to explain a political deal made between the party and the PDI-P who nominated a Catholic, F.X. Rudyatmoko.[68]

67 Arief Munandar, 'Antara Jamaah dan Partai Politik', 93–94.

68 See Solo PKS Sharia Council, 'Pengangkatan Non Muslim Dalam Pemerintahan: Sebuah Pandangan Dan Analisa Syar' (On Electing Non-Muslim Government Leader: An Islamic Interpretation), January 2010.

3.4 Frictions and Factions

After the 2004 election, when the party tripled its votes and obtained almost seven times the number of seats it had held in Parliament, and held three ministerial offices, the central leadership was confronted with the impossible task of maintaining polarising trends between steadily idealistic JT activists and increasingly pragmatic PKS leaders. JT activists – most of whom were not involved in party structures – started to demand that the JT's top leaders, especially the supreme leader, return to the basic JT commitment as a dakwah movement and organisation, and thus soften its political agenda. The tension was high when in March 2009 a group of senior JT activists – including the PKS's 1999 presidential candidate Didin Hafiduddin – handed a petition to the supreme leader, Hilmy Aminuddin, demanding that he should be held accountable in terms of the ideological, organisational as well as financial management of the PKS. They accused Hilmy of utilising the JT for the PKS's political agendas.[69] On the other hand, the political pressures on the PKS in the national arena forced the party leadership to rely more and more on effective decision-making mechanisms by recruiting practically minded politicians – sometimes from outside the JT. This new PKS leadership, in return, demanded that the supreme leader focus on allocating JT resources to support the party's capacity to compete in an unstable political environment. Having succeeded in winning the supreme leader's influence, they started to excommunicate and fire critical JT activists – including former party vice president Syamsul Balda and party founder Yusuf Supendi.

The polarisation between the JT and PKS continues, and there is even polarisation within the two. Inside the PKS, for example, there are divisions between 'office oriented' politicians (who focus on maintaining party positions in political competitions) and 'policy oriented' politicians (who focus on promoting Islamic policies). Furthermore, among office pursuers there are pragmatists, who use politics to advance personal and party interests – including collaborations with the Suharto family, military networks and businessmen (Anis Matta, Fahri Hamzah, Zulkieflimansyah); and reformists, who put the party's interests in line with democratic reforms (Hidayat Nur Wahid, Tifatul Sembiring, Sohibul Iman). Among policy pursuers, there are moderates who do not get involved in pragmatic politics but tolerate it (Mutamimul Ula, Untung Wahono); and radicals who do not tolerate any pragmatic political behaviour (Abu Ridho, Yusuf Supendi).

69 Interview with Didin Hafiduddin, Bogor.

Inside the JT, among those who are not involved in party structures, there are divisions between loyalists who unswervingly support decisions by the party leadership, and critical activists who criticise what they perceive as defiant behaviour and decisions by party elites. Among the loyalists, there are activists who are loyal to certain party leaders but critical towards others (mostly younger activists, still unstable in their financial life, who enjoy cliental relationships with certain party leaders), and those who are loyal to the party and eager to defend the PKS from outside critics. Meanwhile, among critics there are activists who remain in the JT (Didin Hafiduddin, Daud Rasyid Sitorus) and those who have left the organisation and launch their criticism from outside (Tizar Zein, Ihsan Tanjung, Mashadi).

There are three different answers commonly put forward by the PKS with regard to the frictions inside the JT and PKS: the first is a cliché, that friction and factionalism are common phenomena in any organisation, especially among political parties. Proponents of this argument typically add that the PKS is the most solid of all parties in Indonesia, the only party that does not suffer from an organisational split. The second answer was put forward by Yusuf Supendi, who argues that the frictions are caused by the asymmetrical structures of the JT and PKS, and deems party structures as being foreign to Muslim Brotherhood tradition. In order to resolve the frictions, he proposes that the supreme leader take the position of party president, so that there will be a single authority and single line of command.[70] The third answer was provided by Abu Ridho, who sees the frictions as a result of blending two incompatible structures into a single organisation: the JT's social structures and the PKS's political structures. To overcome the factionalism he suggests separating into two different organisations: the JT, with a different leadership, should follow the logic of a social organisation; and the PKS, with another leadership, should follow the logic of political competitions.[71]

4 Democratic Participation

This section discusses the PKS's experience in terms of democratic political participation, i.e. how the party has been caught between maximising political interests and promoting Islamic values. It explores PKS behaviour in three political arenas: political mobilisation, coalition and government formation, and policy formulation and implementation.

70 Interview with Yusuf Supendi, Jakarta.
71 Interview with Abu Ridho, Jakarta.

In those three arenas, the party experienced a dramatic change from normative perceptions and behaviours, perceiving politics as an integral part of dakwah activities and therefore needing to be conducted in line with Islamic norms, into pragmatic understandings and dealings, by taking politics as an instrument for the objectives of dakwah that need to be handled in their own way. At the same time, the change marked the polarisation between increasingly pragmatic PKS politicians and normative JT activists, which turned into tensions and frictions.

In terms of political mobilisation, the PKS has experienced a trajectory from natural understanding of political competition, from perceiving elections as a formal test and a trial of the political party's reputation in society, into a rational understanding of it as contestations that involve strategies to engineer information and reputations, and into a transactional understanding in which it realised that political competition through elections is not only about winning or losing, but rather how to play what it has. Similarly, in the arena of coalition and government formation, initially it perceived a coalition exclusively in terms of ideological cooperation and rejected the notion of collaborating with a secular party. Subsequently, it started to realise that a coalition with a secular party might be seen as a pragmatic short-term strategy in order to achieve normative long-term objectives. Finally, in the area of policy formulation and implementation the party seems to have been trapped between formulating symbolic-normative and rent-seeking policies.

4.1 Political Mobilisation

The PKS has experienced a significant change in political mobilisation, in terms of how it understands the notion of mobilisation as well as the way it carries it out. Firstly, during the early years of its history, JT and PKS leaders perceived political mobilisation as a natural social process, in which reputation and popularity are by-products of society's appreciations of their good and beneficial deeds. Secondly, after they followed through various events of political mobilisation – from rallies on the streets, media warfare to influence public opinion, to elections campaigns – they started to realise that politics is not a natural social process, but rather a series of engineered events through the manipulation of information. Thus, they started not only to amplify their profiles and reputations, but also to fabricate them, sometimes almost out of nothing.[72] Thirdly, when

72 PKS strategies for socialisation included taking advantage of natural disaster relief activities that were often required, by putting its name on aid packages which were sent by other people or organisations to disaster victims; escorting trucks

they learnt more about the nature of democratic competition, especially the idea of plurality – that to win a competition does not only mean to become a majority, but to measure any achievement towards a certain benchmark – they started to utilise political mobilisation as a means of political transaction.

This change, however, did not take place for the PKS network as a whole, but rather more among its political elites. Not all PKS members agreed with this interpretation of politics, and many of them firmly believe that politics is just a means for dakwah, and political achievements are merely by-products of dakwah achievements. Thus, the change marks polarisations of perceptions and behaviours among JT-PKS members, between politically oriented and dakwah oriented factions.

The first event at which the JT was involved in a serious political mobilisation was the 1999 election. At this time – perhaps influenced by the idea of gradual Islamisation – they understood politics as a natural social process, in which elections are merely an arena for political parties to test their popularity and reputation in society. Therefore, they did not prepare a systematic campaign ahead of the elections, but rather intensified their regular activities: coordination meetings, religious sermons, as well as personal rituals such as night prayers. A statement (*Bayan*) issued by the party's central board ten months ahead of the election day informs us about what it deemed important. Firstly, JT members should dedicate their activities to Allah, not to the party. Secondly, the party's ultimate mission is to enact God's laws on earth, political activities through the party are merely a means to an end. Thirdly, maintaining harmony and preventing prejudices, especially with other Muslims, are more important than political achievements. Fourthly, elections are not a trial for the party but an arena for the JT to exercise its ability in implementing religious and political skills. Fifthly, minimising political and social costs is more important than achievements.[73]

Things were different during the 2004 election, however. After the Justice Party failed to pass the 2.5 per cent electoral threshold, the JT founded the Prosperous Justice Party with a new understanding about politics and political mobilisations. There were at least three changes: firstly, in terms of organisation, they established a more systematic organisational structure. During the previous period, the party had not established an institutionalised organisational structure – as it had barely

carrying aid, but were not owned by the PKS; or using vehicles with PKS flags. These activities helped to fabricate a public image of a party that cares for the suffering of the people.

73 Justice Party Central Board Official Release, 22 August 1998.

one year from inception to election – and relied more on its internal networks of *usroh* cells. In addition, the electoral law had not required any organisational benchmark. For the 2004 election, the electoral Law No. 8/2000 required that in order to be eligible to participate in the elections a political party needed to establish organisational branches in all of the provinces and half the total number of districts in those provinces.

Secondly, in terms of human resources, it started to sort and select party leaders and functionaries not only based on their seniority in the JT network, but rather on individual character and skills suitable to the organisation's requirements. The PKS also systematically trained and upgraded the various skills and capabilities of party leaders and functionaries by organising courses, workshops and training on various subjects, such as delivering public speeches, writing in public media, talking in front of TV cameras, lobbying, fundraising, even in carrying out psychological warfare through black campaigns, such as how to exploit the weaknesses and scandals of other parties in order to demoralise its political competitors and to boost the confidence of its supporters.

Thirdly, in terms of political strategy, in which they perceived politics no longer as a natural social process, but rather a competition needing to be pursued in its own way. They raised funds intensively, both from JT members and external donors, domestic and foreign. They started to perceive politics merely as a means to an end, and strategic collaborations with anyone were viewed as tolerable or even necessary, as long as the partners were committed to the long-term goals of the party's mission.[74] They publicised their opinions and activities by organising rallies and protests against various domestic and international issues. PKS leaders became aware of and skilful in using public media by inviting reporters to their activities.[75]

At this point the disagreements started to emerge among JT and PKS members respectively. Controversy often centres around the issue of fundraising: fundraising, in which PKS functionaries actively mobilise financial support from external donors, including government institutions, the network close to the Suharto family and business companies owned by non-Muslims. Critics and protests started to emerge among JT activists who saw these activities as defiant both morally and politically. Morally, the critics argued that politics should be taken as an integral

74 Interview with Hidayat Nur Wahid, Jakarta. He also mentioned that years ahead of the election PKS members persuaded JT members to save white shirts and headscarves to be printed with the party logo for election campaigns.

75 Permata, 'Islamist Party and Democratic Participation', 216.

part of dakwah activities, and therefore should be funded exclusively by morally accountable funds, while politically they accused PKS politicians who received funds from non-Muslims of collaborating with enemies and thus betraying their own mission. Both proponents and opponents supported their opinion with religious arguments backed with quotations from religious books and authorities.[76]

Later on the PKS exhibited another trend of behaviour in political mobilisation, namely transacting votes with other political resources. Following the rules of the game in a multi-party democratic system, PKS politicians quickly learnt that the options available for election participants are not only either to win or lose, but rather to win a bigger or smaller prize according to whatever they got. In democratic politics, for a political party votes are like money for business companies and transferable into other resources. Once PKS politicians got this idea, they started to exchange their votes for other resources, offices or money. This is known as 'political dowry' (*mahar*). They play the game effectively, and most of the time smoothly, especially during gubernatorial and district/mayoral elections, because they have loyal voters. In the 2007 Jakarta gubernatorial election, the PKS received 30 billion rupiah (US$ 3 million) for nominating Let. Gen. (ret) Adang Darajatun, former vice-commander of the Indonesian police.[77] While in the last 2012 Jakarta gubernatorial election, after its candidates lost in the first round, the PKS asked for 100 billion rupiah (US$ 100 million) from the incumbent Fauzi Bowo in return for its 500,000 votes; but the latter bargained for 20 billion rupiah (US$ 20 million), and a deal was reached.[78]

These political actions added more fuel to the existing resistance by JT conservative activists, since such political transactions enabled certain

76 A telling example is the case of a PKS politician, a holder of a doctoral degree in Islamic studies from Saudi Arabia. In the 2004 election he lost in his home district, a traditional Muslim stronghold in Banten province, to a Roman Catholic North Sumatran politician from the secular party PDI-P. Perplexed by the defeat – he believed he had had good contact and coordination with his supporters – he conducted an inquiry into why he had lost. He found that it was because his rival had given 'direct aid' (a euphemism for buying votes) a few days ahead of the polling day. In the 2009 election, unwilling to repeat the same mistake, he provided his voters with direct aid and won a seat in Parliament. The politician opined that money politics is more tolerable than letting a Roman Catholic politician from a secular party represent his Muslim community. Interview with a former student who became an expert member of staff of one of the parliamentary committees.

77 Interview with Yusuf Supendi, Jakarta.

78 *Tempo*, 26 August 2012.

politicians to enjoy lavish lifestyles. The tensions were so high that a few critical JT activists were actually excommunicated or expelled from the party for criticising this behaviour. Indeed, some even left the JT and organised their own groups criticising the PKS and JT leadership for misleading the organisation and betraying the Muslim Brotherhood's political mission.[79] However, some of the more skilful politicians were able to secure support both from high ranking party officials, by providing a significant cash supply badly needed by the party in the increasingly capital intensive political competition, as well as from younger JT activists, by opening channels for funds, networks and careers.[80]

4.2 Coalitions and Government Formation

Similar to what happened in terms of political mobilisation, the PKS also experienced changing perceptions and behaviour with regard to political coalitions in government formation. Initially, during the early years of its history, the PKS's leaders understood the government as an institutional mechanism for formulating and implementing policies, and assumed that political parties would pursue policies following their particular ideology and programmes. Later on, they started to learn that coalitions, just like gathering votes, are instrumental to political objectives and thus should be pursued in their own right. Again, this change also marked the emergence of internal divisions between activists who perceived political activities as an integral part of dakwah activities and thus should be pursued in line with Islamic principles, and those who perceived politics as instrumental to dakwah objectives and thus argued that the end justifies the means.

The first joint venture the party participated in was the formation of the Communication Forum of Islamic Parties (FSPPI, Forum Silaturrahmi Partai-Partai Islam) in 1998. It demanded that the government should repeal Laws No. 3/1985 and No. 8/1985 that required organisations to adopt Pancasila as their sole foundation and it was successful in this. Secondly, fully recognising their minimal calibre, eight of the Forums' members – ten minus the PPP and PBB – agreed to pool their remaining votes in the election in order to get additional seats, the so-called *Stembus Accoord*; a term borrowed from the Dutch.[81]

The second political move was to join PAN to form the Reform Faction (*Fraksi*) in the Parliament. This is rather interesting as PAN is actually not

79 Email correspondence with an ex-JT member.
80 Arief Munandar, 'Antara Jamaah dan Partai Politik', 98–99.
81 Permata, 'Islamist Party and Democratic Participation', 240–241.

an Islamic party; at the same time, other Islam-based parties from the FSPPI requested that the PKS join the Islamic Party Faction. According to Hidayat Nur Wahid, Amien Rais, not PAN, was the deciding factor. PKS leaders knew Amien Rais very well, and they were confident that he would pursue a political agenda parallel to that of the PKS. Furthermore, Amien Rais and other PAN leaders also had credentials as reformists, which was in line with the PKS's political vision. Finally, the PKS's decision to join PAN was based on democratic reasoning, as it made the Reform Faction – with 41 seats – the fifth largest faction in the Parliament. Thus, it had the right to receive a vice chairmanship in the legislature, defeating the Military Faction, which held 38 seats.[82]

The next political coalition that the PKS joined was the Central Axis, a coalition of Islam-based politicians under Amien Rais designed to challenge the candidacy of B.J. Habibie (who was perceived as a remnant of the Suharto regime) and Megawati (who was perceived as a secular politician backed by Christians).[83] Amien Rais, against all the odds, nominated Abdurrahman Wahid as the alternative candidate. Initially the PKS, together with another Islam-based party, the PBB, preferred to support Habibie.[84] When eventually Habibie withdrew his candidacy, the PKS reluctantly gave its support to Abdurrahman Wahid with a qualifying statement that he was the least bad choice.[85] Senior JT activists and former interim PKS president Untung Wahono observed that it was beyond doubt that the PKS preferred Habibie to Abdurrahman Wahid.[86]

When Abdurrahman Wahid was elected as president, he offered the PKS one ministerial position in his cabinet. The PKS accepted and

82 Damanik, *Fenomena Partai Keadilan*, 282–286.

83 Despite the widely held belief that the coalition had been initiated by Amien Rais in order to mobilise support from Muslim politicians, closer observation revealed the opposite. The forum was initiated by a number of senior Muslim politicians to bring Amien Rais back into his proper habitat of Islamic politics. It was triggered by Amien Rais's agreement to join forces with Megawati and Abdurrahman Wahid in furthering a reform agenda. Islamic politicians responded to this move with anxiety, both for ideological as well as democratic reasons. Ideologically they associated Megawati and her PDI-P with secular and Christian politics; while democratically many perceived both Megawati and Abdurrahman Wahid not really as reformists, because they were reluctant to support reforms such as amending the constitution and the demilitarisation of politics. See Suharsono, *Cemerlangnya Poros Tengah* (Jakarta: Perennial Press, 1999), 86–88.

84 Untung Wahono, *Peran Politik Poros Tengah* (Jakarta: Pustaka Tarbiatuna, 2003), 115.

85 PK Bayanat, 17 September 1998.

86 Wahono, *Peran Politik Poros Tengah*, 134.

nominated its chairman, Nur Mahmudi Isma'il, for the position. In a meeting held following the offer, PKS leaders discussed which department was most preferable, and they agreed on several criteria: firstly, it must be a populist ministerial post, i.e. it must deal directly with the public; secondly, it should be in accordance with the party's human resources in order to maximise its performance; thirdly, it should not depend on foreign funds; fourthly, the PKS also preferred a department with the least number of problems. Based on these criteria, the PKS proposed the Ministry of Agriculture. Abdurrahman Wahid seemed to agree with the PKS's proposal and Ismail was on the cabinet list as the Minister of Agriculture. However, when the new Indonesian United Cabinet was made public, Isma'il was shifted to the Ministry of Forestry and Horticulture.[87]

When President Abdurrahman Wahid was impeached by Parliament, the PKS fully supported the impeachment and Megawati's rise to the presidency. Interestingly, the PKS did not join the cabinet, although Megawati reportedly offered one ministerial position. At least four factors might have motivated the PKS to take this decision. Firstly, the Megawati presidency was controversial among conservative Muslims because of her gender. PKS conservative ideology perceives political leadership to be the privilege of male politicians, and thus Megawati was not a proper choice when there were many capable male politicians. Secondly, joining the government under the Megawati presidency was not preferable from a policy point of view, because she and her party were perceived as the reincarnation of the secular-nationalist PNI from the previous era, and thus the arch-rivals of Islamic politics. Thirdly, another anti-Megawati sentiment was that many Muslims perceived the PDI-P to be the vehicle for Christian politicians, notably Maj. Gen. (ret.) Theo Syafe'i, one of Megawati's closest aides, who was believed to have strong anti-Islam feeling. Fourthly, PKS leaders felt that they needed to improve their party organisation as it had failed to pass the electoral threshold and was unable to participate in the next election as a result.[88]

The party's perception and attitude towards political cooperation changed drastically when the party was renamed the PKS. The first moment this became clear was on the eve of the 2004 presidential election. In line with the change of party leadership, its perceptions and attitudes towards political coalition were also moving from idealistic, policy oriented to pragmatic, power oriented. Again, this change exacerbated

87 PK Bayanat, 29 October 1999.

88 Permata, 'Islamist Party and Democratic Participation', 245.

tensions between normative JT activists and increasingly pragmatic PKS politicians. Consistently with their attitude in the past, PKS leaders under Hidayat Nur Wahid supported the nomination of Amien Rais. A few weeks ahead of election day, however, a new option was pushed by Hilmy Aminuddin to back General Wiranto. Hilmy argued that the top priority of the PKS's strategic political agenda was to stop Megawati, who had been made favourite by some observers as she paired with NU chairman Hasyim Muzadi. Amien Rais was preferred ideologically, yet his chances of winning were slim. Wiranto, meanwhile, had a greater chance as he was supported by the winner of the last election, the Golkar party. Undaunted by Hilmy's move, Hidayat urged a vote in the Shura Assembly and won the support of the majority of the members of the party's highest decision-making body.

This incident marked the tension and split among the PKS leadership between reformists (those who put the PKS agenda in line with the agenda of democratic reforms) and pragmatists (those who take politics purely as instrument to achieve power and interests). Hilmy Aminuddin, the supreme leader of the JT, and the then chairman of the PKS's Shura Assembly, lost face in front of that council and Wiranto for failing to bring the party to support him. He blamed Hidayat Nur Wahid for this. It is said that after that moment he vowed that after 2009, Hidayat, who in 2004 was elected speaker of the People's Consultative Assembly (MPR), would be an ordinary legislative member.[89] The tension continued until a new MPR was installed in 2009, during which period the pragmatic camp, represented by the party's general secretary, Anis Matta, was in constant conflict with the reformist faction under the party president, Tifatul Sembiring.

Later developments show how the pragmatic camp had the upper hand. Two simultaneous factors were at play here. On the one hand there was the powerful position of Hilmy Aminuddin, who combined the spiritual authority of the JT and the organisational authority of the PKS. On a personal level, he is very charismatic – a combination of spiritual piety, Sundanese aristocracy and an authoritarian attitude similar to that of a military commander. As the founder of the JT he has a lot of pupils under his mentorship, and he gave many of them important positions in party structures, and together they orchestrate the PKS's management.[90] On the other hand, the PKS's pragmatic trend is also framed by real world

89 Arief Munandar, 'Antara Jamaah dan Partai Politik', 262.

90 Arief Munandar, 'Antara Jamaah dan Partai Politik', 29, 334; *Jakarta Post*, 29 March 2011.

politics and an increasingly capital-intensive political competition.[91] This – in addition to the rampant corruption in regional administrations – forces political parties to collect huge amounts of money for regional elections as well as other political activities. In this situation, just like other parties, the PKS relied heavily on its practically minded politicians.

During Susilo Bambang Yudhoyono's presidency, the PKS showed another peculiar pattern of coalition behaviour, in which it took coalition agreements hostage for political leverage. In Yudhoyono's first term (2005–2009) as a coalition partner, the PKS was involved in political bargaining with the president regarding the plan to raise oil prices. At first, PKS leaders rejected the plan as it was unpopular and could lead to a heavier economic burden on Indonesians already struggling to make ends meet. The PKS clearly understood that supporting this government policy would incite negative reactions from its supporters. The party president, Tifatul Sembiring, repeatedly insisted that his party rejected the plan. One week later, however, the party leader met with the president, and the PKS turned its political stand on the issue through 180 degrees. 'We have to come to terms with political realities', said Tifatul Sembiring, referring to the fact that the majority of the parties in Parliament supported the plan, and that abstaining from supporting the government policy at such a decisive moment would risk its cabinet portfolios.[92]

The decision triggered waves of reactions from PKS supporters. KAMMI, the PKS student organisation, sent its representative to the PKS faction in the Parliament to deliver their protests, and questioned the party's commitment to the struggle for the poor. KAMMI's branches in some provinces also voiced similar complaints.[93] Some PKS regional branches also voiced their disappointment with the party's decision to support the unpopular policy. A few of them even urged their leaders to withdraw from the coalition government, since the support had resulted in a deterioration in the PKS's popularity. The damaging impact of the oil price policy caused great concerns among PKS leaders, with some surveys reporting that only 2.6 per cent of Indonesian voters intended to give their vote to the PKS in the next election – a two thirds decline from the 7.3 per cent it had garnered in elections a year before.[94]

91 Commenting on this topic, Minister of the Interior Gamawan Fauzi acknowledged that the costs of a district/mayoral candidacy can be as high as 50 billion rupiah (US$ 50 million). www.inilah.com/read/detail/490041/begitu-mahalnya-menjadi-bupati/.

92 *Tempo*, 28 March–3 April 2005.

93 *Tempo*, 21–27 March 2005.

94 Interview with Imam Nur Azis, 22 May 2007.

In Yudhoyono's second term, the PKS played the game of political hostage several times. The first case was in relation to the PKS's participation in initiating a special parliamentary committee in December 2009 to inquire into alleged illegal bailouts by the Indonesian Central Bank under Budiono (then newly elected vice president) and former Finance Minister Sri Mulyani, to save the failing Century Bank. This was a serious case as it could lead to an inquiry about Yudhoyono's campaign funds in the run up to the presidential election. President Yudhoyono saw the PKS's move as deviant. He believed that as it was a coalition partner and had received cabinet portfolios in his administration, it was supposed to back his position. Indeed, the President struck back. Muhammad Misbakhun, a PKS politician who was among the initiators of the Century Bank inquiry in Parliament, was reported to the police for submitting fictitious credits to the failed Century Bank. Misbakhun was found guilty and was sentenced to two years in jail and expelled by his party from Parliament.[95]

In the summer of 2011, the PKS joined the opposition parties and proposed to increase oil prices in order to reduce the budget deficit, whilst the government now desperately rejected any plan to increase oil prices, fearing the public's negative reaction. The President's Democratic Party harshly criticised the PKS's moves as unethical, and urged the PKS to leave the coalition if it did not want to support the government. PKS Members of Parliament replied that they were just doing what parliamentarians should do, namely, channelling public political aspirations. In October 2011, Yudhoyono sacked the PKS Minister of Research and Technology, Suharna Suryapranata, and gave the post to his own party.[96]

The decision of the PKS to remain in the coalition but at the same time constantly criticise the government was caused by the internal dynamics and tension between the reformists who wanted to build a positive public image of the party and the pragmatists who did not want the party to lose its cabinet portfolios. The situation caused a particular dilemma for PKS ministers in the cabinet, such as the Minister of Communication and Information, Tifatul Sembiring, who was accused of becoming the mouthpiece of the government, while his own party criticised government policies.[97]

95 www.tempo.co/read/news/2011/06/10/078339847/PKS-Siapkan-Pengganti-Misbakhun-Arifinto-dan-Yoyoh.

96 http://nasional.kompas.com/read/2011/10/18/18581479/Menristek.Suharna.Surapranata.Sudah.Berpamita.

97 Interview with Sapto Waluyo, Jakarta. *Kompas*, 15 April 2009. *Koran Tempo*, 8 March 2011.

The next event, and perhaps the most controversial incident during the political coalition, took place in local politics. Law No. 32/2004 provides that only a party or a coalition of political parties with 15 per cent of the seats in the local legislature can nominate candidates in local elections. Because the PKS is only a minority party in many regions, it needed to enter into a coalition in order to be able to nominate candidates. Until 2008, the PKS had won in 92 regional elections, either on its own or as a partner in a coalition. Eight times had this happened at the provincial level, 84 times at the district level. There are two important points to be made in this regard: firstly, the PKS had won only five times without a coalition (or 5.4 per cent). The other 87 wins were in coalition with other parties and in only 12 of these cases (or 13.9 per cent) were the elected leaders PKS members. As such, in these regional elections the PKS was either a rather unimportant junior coalition partner or it recruited candidates from outside the party. Secondly, and perhaps more interestingly, out of 161 political coalitions it had joined during 244 regional elections held in 2005–2008, 60 per cent were in conjunction with Islam-based parties and 40 per cent with secular and Christian parties: 33 were with the PAN (Muslim-based party), 29 with the Golkar (secular party), 24 with the PPP (Islam-based party), 22 with the Democrats (secular), 20 with the PKB (Muslim-based party), 17 with the PBB (Islam-based party), 14 with the PDI-P (secular party), and one with the PDS (Christian party).

4.3 Policy Formulation and Implementation

There are two different perspectives in understanding policymaking processes: firstly, the normative perspective called 'policy accountability', in which a political party formulates and implements policies that are in line with its ideology or programmatic platform, even though it may contradict people's aspirations and thus could risk voters' support for the party in the next election. Secondly, the rational perspective called 'policy effectiveness', in which a party pursues policies that respond to public aspirations in order to secure voter support in the next election, even though it may run counter to its ideology or programmatic platforms. In terms of behaviour, the PKS consistently promotes populist policies that appeal to public sentiments; yet in terms of understanding it has perceived the policies differently in different periods. Previously, it opted for populist policies because it regarded policies as derivative of ideology and programmatic platforms. Later on, in parallel with its increasingly pragmatic and rational understanding of politics, it pursued a similar course of populist policies. However,

this time the PKS no longer understands it as a logical consequence of its ideological formulations, but rather as a strategy to attract public sympathy.

An example of the populist orientation of PKS policies is its selection of cabinet portfolios, in which it prefers ministerial posts that have direct access to the public, such as Social Affairs, Housing, Agriculture and Youth and Sports. It is through such populist ministries that the party can promote itself to the vast networks in society, especially among the economically lower classes that comprise the majority of Indonesian voters. As seen from previous discussions, PKS leaders preferred ministers with direct access to the public as it is interested in promoting its ideology and programmatic agenda. Yet, in later years, it has not only promoted its ideological agenda, but also its political profile. There are other interesting facts about PKS public offices. It seeks to extract as many resources as possible from every office it holds. It mobilises party functionaries as assistants and aides for its ministers, even replacing housekeepers of prayer rooms in the offices with party members. The PKS also maximises the collaboration of networks of its public officers, for example West Java governor Ahmad Heryawan, a senior JT activist and reputed rally organiser, received many awards – normally followed by grants and other subsidies – from PKS ministers.[98]

The PKS also exhibits inconsistent patterns in policymaking, as can be seen in the case of the oil prices. During Yudhoyono's first presidential term, the PKS initially rejected the government's plan to increase the oil price on the ground that it would worsen economic conditions in society. Then, it supported it on the ground that it should conform as a coalition partner. During the second term of Yudhoyono's presidency, the PKS again played with the oil price issue, this time by supporting a proposal from opposition parties to increase the oil price when the government opted for the opposite. In this case, it seems that the PKS was playing two different games at the same time: firstly, it tested the waters in relation to both the governing party as well as the opposition; and secondly, it played at internal power bargaining between its central board and its ministers in public office, as there had been continuous tension between general secretary, Anis Matta, and former party president, Tifatul Sembiring, who was the Minister of Information and Technology. The idea was that the central board was capable of causing or preventing trouble for the party's ministers and, thus, the latter needed to comply with the former.[99]

98 www.ahmadheryawan.com/8-profil-ahmad-heryawan/3333-daftar-penghargaan.

99 http://www.tempo.co/read/fokus/2012/03/24/2316/Kenaikan-Harga-BBM-PKS-Dituding-Berpolitik-Dua-Muka.

The PKS also displayed a double-standard populist policy when it supported the Anti-Pornography Law that censored pornographic displays and lustful entertainment, but did not apply the same standard to its own politician who was caught watching a porn video. The law was controversial, as many groups accused it of being arbitrary, ambiguous, imposing uniform esthetical standards and discriminating against women. It was ratified as Law No. 44/2008 on 28 October 2008. The PKS was one of the staunchest supporters of the Act, and a PKS politician served as the vice-chairwoman of the bill's committee. Unfortunately, a PKS Member of Parliament was caught watching a porn video during a parliamentary session. Since then, the PKS has been in a defensive position, as the media blew up the scandal and pressed the PKS to impose the Anti-Pornography Law on its own politician. Nevertheless, the PKS still pushed the policy forward by proposing and supporting the creation of a Taskforce for the Prevention and Tackling of Pornography[100] as a special body that supervises the implementation of the Anti-Pornography Law. The Taskforce is coordinated by the Minister for Social Affairs and involves various ministries such as those of Religious Affairs, Education, Law and Women's Empowerment, and the police and also non-governmental institutions such as academics and NGO activists.[101]

Lastly, the PKS is also involved in implementing Sharia-inspired local regulations. These are local regulations implemented by provincial and district governments based on religious values, such as the prohibition of liquor and gambling, forcing people (especially women) to wear Islamic clothing, stopping public activities during Friday religious meetings, requiring Qur'anic literacy, etc. Out of 151 local governments implementing such regulations, 42 are supported by the PKS. In this case, it seems that the PKS's perspective on policymaking is more rational and normative, as it is eager to support government leaders with any policy vision, not just those who implement Sharia-inspired regulations.

5 Conclusion

This chapter has explored the internal dynamics of the Indonesian Prosperous Justice Party (PKS) and its organisational root and supporter, the Jamaah Tarbiyah (JT), in the context of democratising Indonesian politics. The emergence of the PKS on to the Indonesian political scene has

100 Presidential Decree No. 25/2012, ratified on 3 March 2012.

101 http://nasional.kompas.com/read/2012/03/13/15352741/Satgas.Antipornografi.Sudah.Bekerja.sejak.3.Maret.

attracted vast scholarly and popular attention, debates and controversies – both in terms of its ideological profile as an offshoot of the Egyptian Muslim Brothers, and with its amazing political achievements; moving from a small party that failed to pass the electoral threshold into the largest Islam-based party in the Parliament and part of the government. Its ideological orientation drew suspicions of pursuing a radical Islamist agenda in order to replace democracy with an Islamic political system, while its rocketing success raised questions about the prospect of Indonesian democratisation that enabled an apparently radical party to become prominent.

This chapter started with tracking the historical development of the JT and PKS. It is true that the JT was founded following the ideological formula and organisational structure of the Egyptian Muslim Brotherhood model by a group of young graduates of institutions of higher education in the Middle East in the early 1980s. However, further inquiry reveals that the organisation has developed through already existing networks of activists and leadership, nurtured by Islam-based politicians and activists from a previous era, especially young academics in secular universities. The JT evolved into a movement characterised by a mixed political agenda. On the one hand it has adopted the political aims and strategy of the Muslim Brotherhood and wants to create a comprehensive Islamic way of life through a gradual process of dakwah, political democratisation against the background of an authoritarian regime and a politically involved military. On the other hand it is caught up in the realities of Indonesian politics and of the intra-Muslim competitions with other Islam-based political and social organisations.

Such a developmental trajectory and institutional setting created certain internal dynamics inside the JT and PKS. Amid progressive democratic consolidation – especially the consolidation of the party system that made political parties work more professionally – the PKS witnessed an increasingly pragmatic tendency, in both its organisational structures and political behaviour. Organisationally, it experienced a process of oligarchy, in which, initially, the highest authority was in the hands of its members, exercised through the national congress. Later, it was handed over to its elites in the Deliberation Assembly – on the grounds of organisational effectiveness. Behaviourally, it experienced a change in perception and behaviour regarding politics, from perceiving politics as part of Islamic propagation (dakwah) to being conducted following Islamic principles and as an instrument of propagation that needed to be pursued in its own way. These changes led to polarisation, divisions and factionalism both between and inside the JT and the PKS.

In turn, these internal tensions, divisions and frictions influenced a number of aspects of the party's democratic participation: political mobilisation, coalition and government formation, and policy formulation. Initially, the party perceived political mobilisation merely as a contest of profiles and reputations by political actors in front of the public; then it started to perceive political mobilisation as a political competition that requires special preparation and strategies. Finally, its politicians started to realise that during political mobilisation political parties not only compete against, but also cooperate and collude with each other. In terms of coalition and government formation, initially the party perceived it exclusively from an ideological perspective and thus it was willing to cooperate with Islam-based political parties only and rejected cooperating with secular ones. Yet, later on, it adopted a more rational perspective in which coalitions are seen as strategies to maximise political gains, and it became willing to cooperate with any party with any ideology – including Christian parties. Finally, the PKS started to see government coalitions as political cards that can be played against other parties in order to maximise interests or even in intra-party power struggles. Lastly, with respect to policy formulation, the PKS consistently pursues populist policies; yet it perceives these differently at different times. Initially, it understood policymaking normatively as a derivative of ideological orientations. Later, while pursuing the same populist pattern, the party started to perceive populism rationally and as instrumental to attracting public sympathy in order to increase votes in the next elections. As a result, it exhibits inconsistent behaviour in policymaking: on the one hand, it is always keen to join government coalitions; on the other hand, it is also willing to criticise unpopular government policies.

The participation of the JT and PKS in Indonesian democratising politics is also interesting in light of current theoretical debates on the prospects of Islam-based politics. Two theories are relevant: Oliver Roy's thesis on the failure of political Islam, and Asef Bayat's ideas on a political post-Islamism. Much as in Roy's observation, the PKS is also trapped in its own utopian vicious circle of a comprehensive Islamisation of society and state: i.e. that a true Islamic society can be built only under an Islamic state, and that the formation of a true Islamic state requires an Islamic society – in the form of tensions between its political section (PKS) and its social section (JT). Realising the situation, JT-PKS leaders are now starting to discuss how to overcome these tensions: some suggest a unification in which one of its sections needs to be subordinate to the other; others opt for a complete separation between political and social sections, and thus pursue the comprehensive agenda of Islamisation in separate ways.

However, the development of the JT and PKS also resembles Bayat's notion of post-Islamism, in which political Islam, exhausted by its own mission of building a comprehensive Islamic way of life both in society and in the state, has started to adopt programmes it once criticised, such as democracy, human rights, gender equality, religious pluralism, etc. This seems to apply to the JT-PKS, which no longer perceives itself as offering an alternative ideology and programmes to replace the existing ones, both in the Muslim community and for the religiously plural Indonesian people. Rather, it has started to acknowledge its ideology and programmes as being supplementary to making the Muslim community, Indonesian society and the Indonesian nation-state better.

Appendix

TABLE 1 *PKS Involvement in local governments implementing Sharia regulations*

No	Region	Head of Government
1	Kab. Bangka Barat	PKS
2	Kab. Bengkulu Utara	PKS
3	Prov. Bengkulu	PKS
4	Kab. Sukabumi	PKS
5	Kota Depok	PKS
6	Kab. Bekasi	PKS
7	Kota Banjarmasin	PKS
8	Kab. Kepulauan	PKS
9	Kab. Kampar	PKS
10	Kab. Solok Selatan	PKS
11	Prov. Bangka Belitung	Other Party
12	Kab. Pandeglang	Other Party
13	Kab. Serang	Other Party
14	Kab. Muko-Muko	Other Party
15	Kab. Gorontalo	Other Party
16	Prov. Gorontalo	Other Party
17	Kab. Cianjur	Other Party
18	Kab. Indramayu	Other Party
19	Kota Tasikmalaya	Other Party
20	Kota Semarang	Other Party
21	Kab. Cilacap	Other Party
22	Kab. Gresik	Other Party

No	Region	Head of Government
23	Kab. Sidoarjo	Other Party
24	Kab. Ketapang	Other Party
25	Kab. Balangan	Other Party
26	Kab. Hulu Sungai Utara	Other Party
27	Kota Banjarbaru	Other Party
28	Kota Baru	Other Party
29	Prov. Kep. Riau	Other Party
30	Kota Batam	PKS
31	Kota Kupang	Other Party
32	Kab. Pelalawan	Other Party
33	Kota Dumai	Other Party
34	Kab. Pangkep	Other Party
35	Kab. Luwu Utara	Other Party
36	Kab. Selayar	Other Party
37	Kota Kendari	PKS
38	Kab. Pasaman	Other Party
38	Kab. Padang Pariaman	Other Party
40	Kab. Hulu Sungai Selatan	PKS
41	Kab. Tanah Laut	Other Party
42	Kab. Pangkep	Other Party

2 The Mosque as a Religious Sphere

Looking at the Conflict over the Al Muttaqun Mosque

Syaifudin Zuhri[1]

1 Introduction

For Muslims, the mosque is a central institution. Not only does the mosque serve as a religious institution where sermons, prayer and devotional acts are performed in order to create a 'moral community',[2] but also as a 'religious sphere'.[3] Theoretically, the notion of 'mosque as religious sphere' is derived from the idea of public sphere in the Western context, something that is considered as lacking theoretical significance in the Muslim world. The narrow definition of the so-called public sphere in the Western context implies the receding role of religion, limiting the significance of religion to the household and private sphere. Introducing the concept of a religious sphere makes it possible to do justice to the considerable role of religion in public space.[4] Within the just mentioned

1 An earlier version of this article was presented at the International Research Conference on Muhammadiyah (IRCM) in December 2012. I would like to thank two discussants, Azyumardi Azra and Rizal Sukma, for their invaluable comments on the draft. The greatest thanks go to Kees van Dijk for invaluable suggestions and comments.

2 Barbara D. Metcalf, 'Islam in Contemporary Southeast Asia: History, Community, Morality', in Robert W. Hefner and Patricia Horvatich, *Islam in an Era of Nation States: Politics and Religious Renewal in Muslim Southeast Asia* (Hawai'i: Hawai'i University Press, 1997), 309–320.

3 Dale F. Eickelman and Armando Salvatore, 'Public Islam as an Antidote to Violence?', in Esther E. Gottlieb (ed.), *Identity Conflicts: Can Violence be Regulated?* (New Jersey: Transaction Publishers, 2007), 80–81.

4 Armando Salvatore and Dale F. Eickelman, 'Preface Public Islam and the Common Good', in Armando Salvatore and Dale F. Eickelman (eds.), *Islam and the Common Good* (Leiden: Brill, 2006), xi–xxv; José Casanova, *Public Religions in the Modern World* (Chicago: University of Chicago Press, 1994); Craig Calhoun (ed.), *Habermas and the Public Sphere* (Studies in Contemporary German Social Thought) (Cambridge: MIT Press, 1993); Reinhard Schulze, *A Modern History of the Islamic World* (London: IB Tauris, 2000); Dale F. Eickelman and James

perspective, the centrality of the mosque lies in its multiple-functionality, which represents a way for Islam to leave the private sphere and officially enter the public sphere linking the dynamics of Muslim life and its many facets, from the religious, social and cultural to the political.[5] In politics, for example, the mosque functions as a vehicle for supporting certain political views or otherwise as a social site for the mobilisation of collective action, in addition to being an arena for controlling religious discourse prevalent in society.[6]

However, the strategic position of the mosque in many cases leads to conflicts between Muslim agencies, groups and views, even the government's, over who has power in relation to the mosque. This has happened in Europe, and also elsewhere, where Muslims are struggling to maintain their Islamic identity in the face of rapid change brought about by modernity and the Western political circumstances of non-Muslim surroundings. Mosques in European countries have been one of the most heatedly debated issues – and, in many cases, the cause of conflicts – between Muslims and their non-Muslim environments, between Muslims and governments, not to mention between the multiple Islamic interpretations and views of Muslims themselves.[7] In Malaysia, Partai Islam se-Malaysia (PAS, Pan-Malaysian Islamic Party) and the United Malays National Organisation (UMNO) have challenged each other's control over the mosque. The issue of debate between these parties is the extent to which mosques are open to political campaigning.[8]

In Indonesia, as in other Muslim countries, there has traditionally been a distinction between 'official' and 'private' mosques. Whereas

Piscatori, *Muslim Politics*, 2nd ed. (Princeton: Princeton University Press, 2004), xvii; Quintan Wiktorowicz, *The Management of Islamic Activism* (New York: State University of New York Press, 2001), 53.

5 Stefano Allievi, 'Mosques in Europe: Real Problems and False Solutions', in Stefano Allievi (ed.), *Mosques in Europe: Why a Solution has become a Problem* (London: Alliance Publishing Trust, 2010), 24.

6 Akbar S. Ahmed, 'Mosque: the Mosque in Politics', in John Esposito (ed.), *The Oxford Encyclopaedia of the Modern Islamic World*, 3rd ed. (Oxford: Oxford University Press, 1995), 140–143; Quintan Wiktorowicz, 'State Power and the Regulation of Islam in Jordan', *Journal of Church and State* (1999) 41 (4), 677–696.

7 Stefano Allievi, *Conflicts over Mosques in Europe: Policy Issues and Trends* (London: NEF Initiative on Religion and Democracy in Europe, 2009).

8 'PAS claims KL mosque misused by UMNO', www.themalaysianinsider.com/litee/malaysia/article/pas-claims-kl-mosque-misused-by-umno/ (accessed 7 December 2012); 'Adib Zalkapli, PAS, UMNO tussle over Selangor mosques', www.themalaysianinsider.com/malaysia/article/pas-umno-tussle-over-selangor-mosques (accessed 7 December 2012).

the former type are founded by the state, which controls all related activities and disseminates a 'depoliticised' version of Islam designed to remain passive in the face of state power, the private ones, in contrast, are built with private donations, often from wealthy individuals and provide a 'free' space for an Islamic discourse that is not controlled by the state.[9] Unfortunately, no accurate data are available on the number of mosques in Indonesia. One estimate from 2010, not differentiating between official and private ones, mentions 800,000.[10] This number probably does not include smaller places of worship, such as the *surau, langgar* and *musholla*.[11] Each *kabupaten* usually has only one official mosque, often called the Masjid Jami (grand mosque), whereas others are private. These private mosques are usually attached to Islamic organisations, primarily Muhammadiyah and Nahdlatul Ulama (NU). For these two organisations mosques are pivotal in disseminating their Islamic discourse to their audiences, despite the half-hearted political interests of both organisations in Indonesian politics. In addition to official and private mosques, there are also the semi-official mosques funded primarily by the New Order government through the Yayasan Amal Bhakti Muslim Pancasila (YAMP). The YAMP is a semi-governmental organisation initiated by the New Order government in 1982. By 2009 it had built 999 mosques throughout the archipelago. Unlike the mosques attached to Muhammadiyah and the NU, these semi-official mosques are erected on the initiative of the state and display particular symbols that refer to the interests of the state; for example, the ornament on the top of the mosque that reproduces the word of Allah in Arabic script within a pentagonal frame, resembling the pentagonal symbol of Pancasila.[12] Consequently, these YAMP mosques are often called 'Masjid Pancasila', Pancasila mosques.

9 Jean-Claude Vatin, 'Popular Puritanism versus State Reformism', in Richard T. Antoun, *Muslim Preacher in the Modern World: A Jordanian Case Study in Comparative Perspective* (Princeton: Princeton University Press, 1989), 212–218; Patrick D. Gaffney, 'The Changing Voice of Islam: the Emergence of Professional Preachers in Contemporary Egypt', *The Muslim World 81* (January, 1991), 27–47.

10 'Dialog Jum'at', *Republika*, 29 January 2010.

11 Surau, langgar and musholla are small buildings or halls serving as a place for prayer, mainly the five daily prayers, but not the Friday prayer which is mostly performed in a mosque.

12 Hugh O'Neil, 'Islamic Architecture under the New Order', in Virginia M. Hooker (ed.), *Culture and Society in New Order Indonesia* (Kuala Lumpur: Oxford University Press, 1993), 160. Another important article relating to the discussion of mosque architecture in the light of Indonesian history is by Kees van Dijk who discusses varieties, characteristics and changes in mosque structural design from

Besides the above mosque distinction, it is worth mentioning four ways in which the public attaches a particular identity to a mosque and links it with certain Indonesian Muslim organisations. Firstly, the identification is based on a public announcement by an individual or a group who transferred his or her authority over the land and the building of the mosque to a certain organisation through a *waqf* (endowment). Secondly, the identification is built upon attributes which characterise a certain organisation, such as the dominant symbol of the mosque, the colour of the building, the calendar hanging on the wall, and other such features. These attributes mainly represent certain organisations or groups, such as the pentagonal symbol of the Pancasila mosque and the crescent-star which is mainly seen as a symbol of Muhammadiyah. The dominant colour of the mosque building may also play a key role in the identification. Brown is mainly associated with the Partai Keadilan Sejahtera/PKS (Prosperous Justice Party), whereas green is attributed to Nahdlatul Ulama and white to Muhammadiyah. Therefore, the colour is not merely of aesthetic consideration, but also an organisational statement as well, as is the calendar on the wall of the mosque. Thirdly, the rituals performed in the mosque may also signify the identity of the mosque. Fourthly, the organisational affiliation of the *takmir* ([senior] mosque managers) is yet another essential element of identification. Most mosques in Indonesia are mainly identified through the last two patterns, as is the case with the Al Muttaqun mosque discussed here.

As a general topic, this contribution emphasises the political dimension of the mosque. In so doing, it concentrates on the conflict between an Indonesian Islamist party, the PKS, and the second largest Muslim organisation in Indonesia, Muhammadiyah, over the Al Muttaqun mosque in Prambanan, Klaten, Central Java. It starts with a discussion about the centrality of the mosque in the light of PKS politics and the party's political performance in Klaten. The last two sections will specifically deal with the conflict between the PKS and Muhammadiyah over the Al Muttaqun mosque.

2 The PKS's View of the Centrality of the Mosque

Partai Keadilan Sejahtera (PKS) was founded on 20 July 1998 as the Partai Keadilan. The party was officially launched on 9 August 1998 by a number

pre-independence Indonesia to the New Order: see Kees van Dijk, 'the Changing Contour of Mosques', in Peter J.M. Nas, *The Past in the Present Architecture in Indonesia* (Leiden: KITLV Press, 2007), 45–60.

of *tarbiyah*[13] activists at the Al-Azhar mosque in Jakarta. As a movement, tarbiyah introduced a creed that combined the Islamism of Egypt's Ikwanul Muslimin (Muslim Brotherhood) with the idea of individual faith and reform, and one of the specific characters of tarbiyah is their overt political orientation.[14] This is clearly demonstrated through its statute in which PKS claims to be a manifestation of the umma through the slogan *al-hizbu huwa al-jama'ah wa al-jama'atu hiya al-hizb* (the party is the Muslim community and the Muslim community is the party).[15] It also stresses that it is a *dakwah* (Arabic: calling or invite) party which is translated as 'a party that strives to implement Islam as the solution for the life of the nation and the country, to realise the Islamic system and values as blessings for the universe.'[16] Nevertheless, the PKS's ideology and political platform to cultivate dakwah have generated suspicion that the party harbours a hidden agenda to establish an Islamic state.[17] The PKS is also depicted as being a fundamentalist party, a representation of Indonesian-Wahhabism, and of having aims to establish a worldwide khilafah.[18]

13 As a movement, tarbiyah (Arabic: education) refers to Islamic activism, which flourished during the 1980s at major Indonesian universities as a response to the repressive policy of the New Order government through Normalisasi Kehidupan Kampus dan Badan Koordinasi Kampus/NKK-BKK (Normalisation of Campus Life/Body for the Coordination of Student Affairs), which prevented students from being active in politics or from criticising the government. Through mosques located on many campuses, the movement found fertile grounds for the recruitment and cultivation of members through small religious study groups (*halqa* and *liqo*): Ali Said Damanik, *Fenomena Partai Keadilan: Transformasi 20 Tahun Gerakan Tarbiyah di Indonesia* (Jakarta: Teraju, 2002), 67–68.

14 Ahmad-Norma Permata, 'Islamist Party and Democratic Participation: Prosperous Justice Party (PKS) in Indonesia 1998–2006', *Unpublished PhD thesis*. Münster University, 2008, 16.

15 Syamsul Balda, Abu Ridha, and Untung Wahono, *Politik Da'wah Partai Keadilan* (Jakarta: DPP Partai Keadilan, 2000), 57.

16 PKS, *Anggaran Dasar dan Anggaran Rumah Tangga PKS*, article 2 and 5–6 (2006); Masdar Hilmy, *Islamism and Democracy in Indonesia. Piety and Pragmatism* (Singapore: ISEAS, 2010), 123–124.

17 Noorhaidi Hasan, 'Electoral Politics and Da'wa Mobilization among Youth: The Prosperous and Justice Party (PKS) in Indonesia', *The RSIS Working paper* series No. 184, 2009, 14; Noorhaidi Hasan, 'Political Islam in Indonesia', in Ishtiaq Ahmed, *The Politics of Religion in South and Southeast Asia* (New York: Routledge, 2011), 150–151.

18 Firman Noor, 'Moderate Islamic Fundamentalism: Understanding the Political Thinking of the Partai Keadilan Sejahtera (PKS)', *Studia Islamika*, Vol. 14, No. 3, 2007, 449–481. Kees van Dijk, 'Partai Keadilan Sejahtera: Radical, Moderate

From a historical point of view, since its first development, tarbiyah has depended heavily on the mosque as its power base, particularly campus-based ones, throughout Indonesia.[19] In the 1980s, one of the founding fathers of tarbiyah, Imaduddin Abdul Rahim, introduced the thought, political concepts and organisational traditions underpinning Ikhwanul Muslimin to the Salman mosque community of the Institut Tekhnologi Bandung (ITB). Due to the networks of Lembaga Dakwah Kampus/LDK (Campus Dakwah Bodies), tarbiyah could also expand the Islamic tradition of the Muslim Brotherhood to mosques in other usually state-owned universities, such as the Shalahuddin mosque in the Universitas Gadjah Mada (UGM) of Yogyakarta, the Al-Huriyyah mosque in the Institut Pertanian Bogor (IPB), and the Arief Rahman Hakim mosque in the Universitas Indonesian (UI) of Jakarta.[20] However, this model of political mobilisation is not a unique trait of tarbiyah as the Muslim Brotherhood in Egypt and other Islamist movements have also used mosques as their headquarters in order to develop their political activism.

In addition to the historical facts mentioned above, the importance of the mosque for PKS politics is well accentuated through the PKS's call for a *Gerakan Kembali ke Masjid* (Back to the Mosque Movement) in 2011, which the party used to emphasise the centrality of the mosque in terms of Islamic education and as a way of preventing teenagers from misbehaving.[21] However, this programme is neither merely ethical nor religious as it is also closely linked to the PKS's political mobilisation through the mosque. In addition, in 2011, Tifatul Sembiring, the former president of PKS and now Minister of Communication and Telecommunication, announced the so-called 'Online Masjid Raya' programme that connects thousands of *Remaja Masjid/Remas* (young activists of the mosque).[22]

and Practical', in Kees van Dijk and Machasin, *Cleveringa Lecture*, 4 December 2004-UI Depok (Jakarta: KITLV-Jakarta, 2005), 10; Ken Michi, 'Penetration of Islamism in Contemporary Indonesia: Militant or Moderate?', in Masatoshi Kisaichi, *Popular Movements and Democratizations in the Islamic World* (New York: Routledge, 2006), 132; Abdurrahman Wahid (ed.), *Ilusi Negara Islam: Ekspansi Gerakan Islam Transnasional di Indonesia*, Jakarta: the Wahid Institute, 2009.

19 Imdadun Rahmat, *Ideology Politik PKS. Dari Masjid Kampus ke Gedung Parlemen* (Yogyakarta: LKiS, 2008).

20 Damanik, *Fenomena Partai Keadilan*, 180.

21 PKS Serukan Gerakan kembali ke Masjid at http://beritapks.com/pks-serukan-gerakan-kembali-ke-masjid/ (accessed 3 November 2012).

22 The term *Remaja Masjid* implies young and teenage activists of the mosque. They have been the backbone of mosque-based activities among their age group,

The programme is administered by a special PKS related body, Jaringan Pemuda dan Remaja Masjid Indonesia/JPRMI (Indonesian Network of Mosque Youth and Teenagers). JPRMI, founded on 11 September 2005, is a national body of young activists of the mosque and is headed by an active member of the PKS, Valentino Dinsi. Besides focusing on education, health and charitable activities, it has carried out a number of activities related to entrepreneurship. In addition, JPRMI provides five million rupiah for takmir and *remas* to develop their economic activities.[23] The two programmes without a doubt demonstrate the significant position of the mosque in the framework of PKS politics in Indonesia.

Along with the PKS's political activities through the mosque, the party has also been renowned for establishing Islamic schools or the so-called 'Sekolah Islam Terpadu' (Integrated Islamic Schools), rather than *madrasah*. This type of educational institution has flourished due to mosque-based activism and the schools are mainly established in areas surrounding mosques. The words 'Islam Terpadu' refer to a type of education that practises Islamic models of curricula and integrates secular and Islamic subjects. The tarbiyah movement introduced the name and concept of these Islamic educational institutions in the 1990s, claiming that such education guaranteed the fulfillment of the spiritual and intellectual health of children and teenagers. In such educational institutions, students have to undergo a full day of schooling in which they learn secular and religious topics under the strict supervision of their teachers, resembling the model of the cadre education of the Islamic Brotherhood, which emphasises the dominant role of the *murabbi* (Arabic: instructor) in supervising the religious life of the students.[24]

Another dakwah activity by the PKS worthy of mention is the PKS's affiliated relief organisation, Pos Keadilan Peduli Ummat/PKPU (Centre for Justice and the Care of Society). This has been one of the most important relief organisations operating specifically in disaster-affected

particularly providing religious lessons for teenagers and children. The PKS's attention for these young activists is not surprising when we look at the fact that the PKS relies on the political support of the younger generation and the party's strategic agenda to educate and indoctrinate young activists for the sake of winning future elections.

23 'JPRMI Kembangkan Kewirausahaan', *Republika*, 12 August 2011, 'Juni Supriyanto, Tak Sebatas Pelatihan', http://koran.republika.co.id/koran/52/142898/Juni_Supriyanto_Tak_Sebatas_Pelatihan (accessed 3 May 2012).

24 Noorhaidi Hasan, 'Education, Young Islamists and Integrated Islamic Schools in Indonesia', *Studia Islamika*, Vol. 19, No. 1, 2012, 79–111.

areas, both nationally and internationally.[25] One of the most distinctive characteristics of the PKPU is that it pays attention not only to tangible problems brought about by natural disasters, but also to religious ones. In so doing, the PKPU has aimed at the building of mosques in many areas, including places where no natural disaster has occurred.

In short, the above discussion reveals that one of the remarkable characteristics of the PKS is its model of political mobilisation, which combines religious and political struggles. Stressing that it is a dakwah party makes for an institution that is a political party as well as an Islamic socio-religious organisation. Its roots and past activities as well as its political performance emphasise the centrality of the mosque for the PKS. The following discussion is on PKS politics in the local context, i.e. Klaten, Central Java. How the dakwah slogan is translated into local politics is an important part of the discussion, in addition to the consequences of PKS dakwah politics.

3 The PKS in Klaten

Klaten is home to the abangan[26] community. It also is a 'red area' as it had been a base for Sukarno's Indonesian nationalist party (PNI, Partai Nasional Indonesia), rather than Islam.[27] The results of two general elections during the reformation era, in 2004 and 2009, place the Partai Demokrasi Indonesia-Perjuangan/PDI-P (Indonesian Democratic Party-Struggle) of Sukarno's daughter, Megawati, in pole position. The PDI-P gained 18 seats in the 2004 election for members of the Dewan Perwakilan Rakyat Daerah/DPRD (Regional House of Representatives) of Klaten. This number decreased to 15 seats in the 2009 election, whereas the PKS garnered five seats in the 2004 and 2009 elections.[28] Even though PKS's political achievement at these two elections remained the same, the

25 Hilman Latief, 'Islamic Charities and Social Activism: Welfare, *Dakwah* and Politics in Indonesia', *Unpublished PhD thesis*, Utrecht University, the Netherlands, 2012.

26 Abangan refers to the Javanese community who practise Islamic values while continuing to hold animistic values central to their own well-being. It is also used to describe non-practising Muslims. The term was popularised by Clifford Geertz in 1964 through his *The Religion of Java*.

27 Sutiyono, *Benturan Budaya Islam: Puritan dan Sinkretis* (Jakarta: Kompas, 2010), 32.

28 One seat in the Regional House of Representatives was due to the PKS in Prambanan. M. Agung Suryantoro serves as the current representative of the PKS from Prambanan at the DPRD of Klaten.

party has been quite successful in establishing affiliated organisations. These organisations are without a doubt important vehicles for the PKS's political mobilisation in Klaten.

As far as the PKS in Klaten is concerned, the party is in control of four affiliated organisations: Hidayah, Yayasan Adil Sejahtera (YASR), Pesantren Ibn Abbas and Al Muttaqun. Hidayah, founded in 1997, focuses on Islamic education and charity activities. It runs the Taman Kanak-kanak Islam Terpadu/TKIT Mutiara Hati kindergarten, the Sekolah Dasar Islam Terpadu/SDIT Hidayah elementary school, the Sekolah Menengah Pertama Islam Terpadu/SMPIT Hidayah junior high school, and a special body for charitable activism, Dompet Sosial Hidayah (DSH). Though it is hard to find clear evidence of a connection between these institutions and the PKS, Muhammadiyah activists in Klaten have mentioned a number of cases that justify that assumption. Darwanto, the head of development of the branches of the Muhammadiyah board (Pimpinan Daerah Muhammadiyah/PDM) in Klaten, revealed that the Muhammadiyah in Klaten received many complaints from Muhammadiyah members who sent their children to Hidayah educational institutions. They complained that their children were repeatedly instructed by their teachers to hand out leaflets promoting PKS programmes and views to their parents. In addition, Darwanto claimed that recipients of *zakat* (mandatory alms) and *sedekah* (Ar. *sadaqa*, voluntarily alms) were indoctrinated by the PKS when they attended meetings where the DSH distributed zakat and sedekah.[29]

Like Hidayah, YASR was established in 1999. It professes to be an Islamic organisation whose activities are related to Islamic education and dakwah. The organisation is led by Suciningsih Wisnu who currently runs Sekolah Dasar Islam Terpadu/SDIT Cendekia and Pesantren Takwinul Ummat. However, unlike Hidayah, the relationship between YASR and the PKS can be seen from the structure of the organisation in which Hidayat Nur Wahid serves as the head of its consultative body. In addition, in the 2005 Klaten local elections, Suciningsih was a PKS candidate for the position of district head. Pesantren Ibn Abbas, founded on 23 July 2003 by Hidayat Nur Wahid, is an Islamic boarding school the main curriculum of which is devoted to memorising the Qur'an. In addition, it also runs the Sekolah Menengah Pertama Islam Terpadu/SMPIT Ibnu Abbas, Sekolah Menengah Umum Islam Terpadu/SMUIT Ibnu Abbas, and *Ma'had Ali*.[30] The main goal of the *pesantren* is to educate teenagers

29 Interview with Darwanto, 13 April 2012.

30 *Ma'had Ali* is the highest level in pesantren education and resembles the university level in the modern educational system. Those who study there are the more advanced students of a pesantren (*santris*).

and to create agents of dakwah. As is also the case with Hidayah, leaders of the pesantren belong to the PKS elite in Klaten. Among them are Mu'inuddinillah Basri, the director of the pesantren, and Suciningsih, the director of YASR and a member of the consultative body of the pesantren, as is Hidayat Nur Wahid. It is worth noting that, in addition to being director of the pesantren and an active member of the Shariah Council of the PKS, Mu'inuddinillah Basri also serves as director of the post-graduate programme for Islamic studies at the Universitas Muhammadiyah Surakarta (UMS).

Hidayat Hur Wahid also established the Yayasan Al Muttaqun (Al Muttaqun Foundation) on 26 June 2006, precisely one month after the Yogyakarta earthquake. In its official document, the foundation explains that it carries out a number of activities related to dakwah, collects and distributes zakat, infaq and sedekah, and handles the management of the Al Muttaqun mosque, which the foundation has made its headquarters.[31] However, it is important to note that the establishment of the foundation is closely related to the PKS's political activism through the mosque, i.e. the political efforts of Hidayat Nur Wahid and core members of the PKS in relation to controlling the mosque, replacing Muhammadiyah. In addition, the establishment is also related to the efforts of the PKS to acquire financial support from Middle Eastern waqf foundations, which require potential recipients to have official permission from the government or at least a notary public's certificate. In view of this, it is not surprising that the establishment of the Al Muttaqun foundation has generated conflict between the PKS and Muhammadiyah. This conflict will be discussed in detail in the next section.

4 Disputes over the Al Muttaqun Mosque

Disputes over mosques are not unusual in Indonesia as the country's mosques have been associated with certain Islamic organisations or views. Prior to Indonesian independence and during the first half of the New Order period, the conflicts involved reformist (Muhammadiyah) and traditionalist (Nahdlatul Ulama/NU) Muslims. In the practice of *azan* (call to prayer) for example, traditional Muslims read the *shalawat* (praises to the Prophet Muhammad) prior to the azan, whereas reformists consider such practice as *bid'a* (unlawful innovation). Another example that illustrates the controversial issues between the two is the presence of the *bedug* (drum), the function of which is to mark religious moments, mainly

31 Kantor Notaris Mochamad Imron, *Akta Pendirian Yayasan*, 26 June 2006.

to alert Muslims to the five daily prayers. Whereas reformists consider this instrument to be un-Islamic and a kind of bid'a, traditionalists have kept firmly to this tradition. However, during the 1980s, such controversial issues concerning *sunnah* (recommended ritual) and bid'a were not given much public attention as Muhammadiyah and NU had started to work together.[32]

Following the Indonesian reformation of 1998, public disputes over the mosque re-emerged. A clear indication of the new prominence of disputes over mosques is the emergence of the 'sabotage and infiltration of mosques' issue. This refers to mosques that were previously attached to Muhammadiyah or the NU but came to be controlled by organisations or groups whose Islamic ideals and principles are considered to be contradictory to those of these two organisations. The perpetrators are usually identified as transnational and Islamist groups whose Islamic views challenge the idea of Indonesia as a national state and endanger social harmony in society. Specifically, the accusation of sabotage is levelled at the PKS, which is perceived as being the most active in resorting to what are considered to be sabotage and infiltration. Responding to this external threat by the PKS, in 2006 Muhammadiyah issued a circular letter on '*Konsolidasi Organisasi dan Amal Usaha Muhammadiyah*' (Consolidating Muhammadiyah's organisation and its social services bodies) aimed at protecting Muhammadiyah's assets from being taken over and their management committees and boards from being infiltrated by the PKS.[33] In 2007, in an identical move, the NU issued a fatwa alerting Indonesian Muslims to the danger presented by the idea of *khilafah*, the promotion of an Islamic state, and the call for byelaws implementing Shariah that were propagated by Islamist organisations through their mosque-based activism.[34] Though the NU's fatwa does not mention the PKS by name, as the circular letter of Muhammadiyah does, the NU shares Muhammadiyah's suspicion of the PKS, where cases of so-called mosque infiltration are concerned.[35]

32 The growing acceptance of each other by Muhammadiyah and NU has been identified since the 1970s when both started to work hand in hand for the benefit of the Muslim community, rather than continuing their antagonism: see William R. Liddle, 'The Islamic Turn in Indonesia: "A Political Explanation"', *Journal of Asian Studies*, Vol. 55, No. 3, August, 1996, 623.

33 Muhammadiyah, Surat Keputusan Pimpinan Pusat Muhammadiyah, No. 149/Kep /I.0/B/2006 tentang Kebijakan Pimpinan Pusat Muhammadiyah mengenai Konsolidasi Organisasi dan Amal Usaha Muhammadiyah.

34 Nahdlatul Ulama, Keputusan Majelis Bahtsul Masa'il Nahdlatul Ulama tentang Khilafah dan Formalisasi Shari'ah, 2007.

35 'PBNU Minta PKS Hentikan Perebutan Masjid', www.nu.or.id/a,public-m,dinamic-s,detail-ids,1-id,34016-lang,id-c,warta-t,PBNU+Minta+PKS+Hentikan

Judging from the articles published in *Suara Muhammadiyah*, an official magazine of the organisation, during 2006–2007, the threat posed by the PKS was seen as a major issue to which a number of Muhammadiyah national leading figures responded. An article entitled *Sendang Ayu: Pergulatan Muhammadiyah di Kaki Bukit Barisan* (Sendang Ayu: Muhammadiyah's Fight at the Foot of the Barisan Mountains), drew attention to the fate of the Muhammadiyah local office in Purwodadi, Central Java, when, in 2006, Abdul Munir Mulkhan called attention to the problem of ideological infiltration in Muhammadiyah circles.[36] Responding to the article, Farid Setiawan's *Ahmad Dahlan Menangis: Tanggapan terhadap Tulisan Abdul Munir Mulkhan* (Ahmad Dahlan Cries: A Response to Abdul Munir Mulkhan's Article), and *Tiga Upaya Menyelamatkan Mu'alimin dan Mu'alimat* (Three Efforts to Save Senior High School for Male and Female Students),[37] clearly pointed to the problem of the 'tarbiyah virus' that infected not only the organisation, but also the minds of Muhammadiyah activists.[38] Haedar Nashir joined in the discussion with his article, *Manifestasi Gerakan Tarbiyah: Bagaimana Sikap Muhammadiyah?* (Manifestation of the Tarbiyah Movement: How should Muhammadiyah Respond?), in which he called for reform within the organisation in order to protect Muhammadiyah from infiltration by the tarbiyah ideology and prevent the advance of the *jamaah*[39] (i.e. PKS) in the jamaah (i.e. Muhammadiyah).[40] To the local Muhammadiyah leaders in Prambanan the issue of sabotage and infiltration by the PKS

+Perebutan+Masjid-.phpx (accessed 3 May 2012); Abdurrahman Wahid (ed.), *Ilusi Negara Islam: Ekspansi Gerakan Islam Transnasional di Indonesia* (Jakarta: the Wahid Institute, 2009), appendices 1 and 2.

36 Abdul Munir Mulkhan, 'Sendang Ayu: Pergulatan Muhammadiyah di Kaki Bukit Barisan', *Suara Muhammadiyah*, 2 January 2006, 23.

37 Mu'alimin dan Mu'alimat are the first two formal educational institutions owned by Muhammadiyah. Established by the founder of Muhammadiyah, Ahmad Dahlan, in 1918, these two are based in Yogyakarta.

38 Farid Setiawan, 'Ahmad Dahlan Menangis' (Tanggapan Terhadap Tulisan Abdul Munir Mulkhan), *Suara Muhammadiyah*, 20 February 2006, 34–35; Farid Setiawan, 'Tiga Upaya Menyelamatkan Mu'alimin dan Mu'alimat', *Suara Muhammadiyah*, 15 April 2006, 34–35.

39 Jamaah literally means 'group'. The term is commonly used only to indicate groupings not only in terms of religious, but also of ideological and political affiliation.

40 Haedar Nashir, *Manifestasi Gerakan Tarbiyah: Bagaimana Sikap Muhammadiyah?* (Yogyakarta: Suara Muhammadiyah, 2007); see also Masykur Waritmo, 'Membendung Ideologi Lain di Lembaga Pendidikan Muhammadiyah', *Suara Muhammadiyah*, 31 May 2006, 12–13.

presented just as great a problem as it did to the national ones. Following the Yogyakarta earthquake on 26 May 2006, the PKS and Muhammadiyah became involved in a serious dispute concerning the status of the Al Muttaqun mosque.

The Al Muttaqun mosque is located in front of the Hindu temple, Candi Prambanan, in the sub-district of Prambanan, Klaten, Central Java.[41] It dates from 1955, was rebuilt in 1980, and again in 2006. Erected on a piece of land obtained from the Surakarta *kraton* (palace) as a waqf for Muslims living in Prambanan, the mosque is a private rather than an official one. Despite the fact that the mosque was given to Muslims in general, the people living in the environs of the mosque maintained that it belonged to Muhammadiyah, prior to becoming a PKS one later. They based their view on the fact that the rituals performed in the mosque were akin to those of Muhammadiyah and that its takmir was affiliated to Muhammadiyah.

Prior to the 2006 earthquake, the Al Muttaqun mosque was surrounded by two other buildings, a house belonging to Bani Ibrahim and the Taman Kanak-kanak Aisyiyah Bustanul Athfal/TK ABA Ngangkruk. The house of Bani Ibrahim had been in the area since the colonial era when Ibrahim, the great-grandfather of the last occupant of the house, Ahmadi, served as *katib* (secretary whose duties include the registration of Islamic affairs, mainly marriage). TK ABA Ngangkruk is a kindergarten founded in 1956 that falls under the supervision of the Prambanan branch of Aisyiyah, the women's organisation of Muhammadiyah.[42]

One month after the Yogyakarta earthquake, the dispute over the Al Muttaqun mosque between the PKS and Muhammadiyah broke out.[43] It

41 Though the Prambanan temple is located there, only 1 per cent of the inhabitants of Prambanan are Hindus, whereas 94 per cent are Muslims (Badan Pusat Statistik, Penduduk Menurut Kecamatan dan Pemeluk Agama di Kabupaten Klaten Tahun 2010, http://klatenkab.bps.go.id/Subyek_Statistik/04.Sosial/agama.pdf accessed 3 March 2012).

42 Pimpinan Pusat Muhammadiyah, *Piagam Pendirian Taman Kanan-Kanan Aisyiyah Bustanul Athfal*, 7 May 1992, Dinas Pendidikan Agama Kabupaten Klaten, *Surat Piagam*, 1 May 1970, Pimpinan Aisyiyah Daerah, *Surat Tanda Terdaktar*, 1 December 1984, Pemerintah Kabupaten Klaten-Dinas Pendidikan dan Kebudayaan, *Sertifikat Nomor Identitas Sekolah (NIS)*, 1 July 2004.

43 However, the root of the tension between the two organisations can be traced back to prior to the 2006 Yogyakarta earthquake. According to one respected Muhammadiyah leader in Prambanan, tension dated from the time when conflict between a father and son, between Muhammad Syukri and Hidayat Nur Wahid, surreptitiously occurred. It is said that, as one of Muhammadiyah's leading figures in Prambanan, Syukri strongly criticised Hidayat Nur Wahid's activities in the

The present Al Muttaqun mosque, Prambanan, Klaten, Central Java (by courtesy of PCM Prambanan)

started when, responding to the earthquake casualties, the PKS established a '*posko*' (a post for humanitarian aid) next to the mosque, helping people affected by this natural disaster. This led to a number of religious activities, cadre and recruitment training sessions given by the PKS, such as *mabit* and *liqo*, held in the mosque.[44] It was then exacerbated by the fact that some people affiliated to the PKS – in close relationship with Hidayat Nur Wahid – announced a new takmir that, according to activists of Muhammadiyah, excluded members of their organisation. This increased suspicion in Muhammadiyah circles that the PKS had sabotaged and

tarbiyah movement, which had been at the root of the party and is the most important vehicle for the PKS's cadres and political mobilisation. Furthermore, he severely criticised his son's efforts to involve Muhammadiyah in political affairs. Interview with anonymous person, 23 March 2012.

44 *Liqo* (Arabic: meeting) refers to weekly gatherings of small groups (five to 12 people) to learn Islamic studies under the guidance of more senior and qualified Islamic teachers of the PKS called *murabbi*, whereas *mabit* (literally means sleepover) refers to a spiritual gathering at night (usually held once a month) attended by a *liqo* group and *murabbi*. See Ali Said Damanik, *Fenomena Partai Keadilan*, 129–133; Ahmad Ali Nurdin, 'PKS's Democratic Experiences in Recruiting Members and Leaders', *Al Jami'ah: Journal of Islamic Studies*, Vol. 49, No. 2, 2011, 340–345.

taken over the management of the mosque. The tension between the Muhammadiyah and the PKS came to a head when Hidayat Nur Wahid registered the so-called Al Muttaqun Foundation (Yayasan Al Muttaqun) at the office of the notary public, which issued a notarial deed (*Akta Notaris*) on 26 June 2006. The deed mentions that the mosque came under the control of the Al Muttaqun Foundation. In addition to Hidayat Nur Wahid, Agung Suryantoro, now serving as a PKS member of the Regional House of Representatives, and a number of Muhammadiyah leaders signed the deed, including the former chairman of the Pengurus Cabang Muhammadiyah/PCM (Board of the Muhammadiyah sub-district branch) in Prambanan, Ahyadi, later appointed chairman of the Al Muttaqun takmir.

However, it is worth noting that the establishment of foundations by the PKS is not unusual, particularly when referring to cases in Prambanan after the 2006 earthquake. During my fieldwork, I found three notary deeds registered on 1 July 2007. These concerned the establishment of three foundations all named the TK ABA foundation. These deeds seem to be illegal as only the Muhammadiyah central board can issue deeds founding Muhammadiyah schools. When I confronted the leaders of Muhammadiyah of Prambanan with these findings, they acknowledged that the organisation had investigated these problems. The investigation revealed that a number of Muhammadiyah leaders mentioned in the deeds were ignorant of the establishment of those foundations. However, they acknowledged that people from Hidayat Nur Wahid's circle had asked them to hand over their identity cards (Kartu Tanda Penduduk/KTP) for the purpose of obtaining financial support for Muhammadiyah schools, not for registering new organisations. The PCM then reported the matter to the notary public who issued the deeds and warned him that the PCM might pursue the case in court. The three deeds were annulled by the notary public a few days later.[45]

Serving as chairman of the board (*Dewan Pembina*) of the Al Muttaqun Foundation, Hidayat Nur Wahid played an important role in the transformation of the Al Muttaqun mosque. Hidayat Nur Wahid was born on 8 April 1960 in Prambanan. He studied at Muhammadiyah schools before continuing his studies at Pesantren Gontor in Ponorogo, East Java, the State Islamic Institute of Sunan Kalijaga (IAIN SUKA) and Ummul Qura in Medina, Saudi Arabia. He once served as the president of the PKS party, replacing Nur Mahmudi Isma'il when the latter was appointed Minister of Forestry and Plantation in 1999. In 2004,

45 Interview with anonymous person, 13 March 2012.

Hidayat Nur Wahid became chairman of the Majelis Permusyawaratan Rakyat/MPR (People's Consultative Assembly), gaining many contacts in the world of politics and in the bureaucracy.

With the experience he gained in politics and in the bureaucracy, while serving as chairman of the MPR, Hidayat Nur Wahid was seen as the mastermind behind the initiative to change the status of the mosque from a waqf for Muslims in general to one owned by a specific institution (i.e. the Al Muttaqun Foundation). Muhammadiyah activists in Klaten are sure that the transformation of the status of the mosque would have been impossible without the political intervention of Hidayat Nur Wahid as chairman of the MPR. They see the ultimate proof of this in the fact that it took only one day (1 July 2006) for a land certificate for the mosque to be issued, legitimising the Al Muttaqun Foundation's ownership of the land. This is exceptional as usually such a procedure takes months to be completed.[46]

5 The Conflict between the PKS and Muhammadiyah in Prambanan Reaches its Climax

Following the 2006 earthquake and the establishment of the Al Muttaqun Foundation, Hidayat Nur Wahid had several meetings with a number of national leaders including the Indonesian President, Susilo Bambang Yudhoyono. He informed them that the Al Muttaqun mosque had collapsed, and invited them to contribute to its restoration. Having received a financial contribution from the Waqf Ministry of the Qatar government, the PKS was able to rebuild the mosque in 2006 to the tune of 12 billion rupiah. The new building of the mosque is brown – a colour commonly linked to the PKS by the public – and it was officially inaugurated on 13 March 2009. Hidayat Nur Wahid, the Indonesian Minister of the Interior, Mardiyanto, and a number of officials in Central Java, among them its governor, Bibit Waluyo, and the head of Klaten kabupaten, Sunarno, attended this public ceremony, where

46 For a land certificate to be issued the National Land Agency (Badan Pertanahan Nasonal/BPN) must perform several procedures, ranging from registration of the applicant, measuring the land, and ensuring the status of the land is not in dispute. In its official regulation, the whole process needs at least 98 days to complete for waqf land. See the regulation at www.bpn.go.id/Beranda/Layanan-Pertanahan/PELAYANAN-PENDAFTARAN-TANAH-PERTAMA-KALI/Wakaf/WAKAF-DARI-TANAH-BELUM-BERSERTIPIKAT-KONVERSI,-PE.aspx (accessed 3 May 2012).

the establishment of the Saihul Jasim Bin Muhammad Alistani Islamic Centre, named after the founder of modern Qatar, was also announced.

In his official speech at the inauguration, Hidayat Nur Wahid mentioned that the building of the mosque expressed his deep commitment to the development of his homeland (*bali ndeso, mbangun ndeso* [back to village to develop it]) and the building of the mosque was inspired by the Hindu legend of Bandung-Bondowoso who built the Prambanan temple in only one night.[47] With regard to its architecture, Hidayat Nur Wahid said that the building also represented the nature of Islam in Java, which, he stressed, respects other religious traditions and might have provided a model for the development of Islam in Indonesia.[48] He also mentioned that the building reflected the glorious past of Islam in Indonesia, Europe and the Middle East. The gate of the mosque was modelled on the gate of Cordoba's mosque in Spain, while the two minarets resembled those of two holy mosques in Mecca and Medina. Furthermore, there are names of Javanese *wali* in Arabic script written along the whole length of the interior wall of the mosque.

Leaders of the PCM in Prambanan questioned the reports about the collapse of the Al Muttaqun mosque in the media and also what Hidayat Nur Wahid had told the Indonesian President in May and again in October 2006. In an interview, the chairman of the Al Muttaqun takmir, Ahyadi, indirectly acknowledged that the earthquake had not caused damage to the mosque. However, he refused to respond to the accusation by Muhammadiyah activists that Hidayat Nur Wahid had manipulated information about the condition of the building following the earthquake.[49] They argued that the mosque had still been standing firmly, unaffected by the earthquake, whereas two other buildings, the

47 This reference to a Hindu legend rather than to Islamic ones, such as that of Sunan Kalijaga who built the Demak mosque in one night, is surprising. It might be that he wanted to relate the mosque to the Hindu temple located just in front of it, showing his respect for other religions, but he may also have been ignorant of the story of the Demak mosque.

48 'Masjid al Muttaqun Potret Keberagamaan', *Republika*, 13 March 2009.

49 'SBY Dukung Pembangunan Kembali Masjid Prambanan', http://masjidrayaalmuttaqun.com/index.php?option=com_content&view=article&id=61:sby-dukung-pembangunan-kembali-masjid-prambanan&catid=34:umum&Itemid=66 (accessed 3 March 2012); 'Presiden Kunjungi Pengungsi Korban Gempa di Prambanan' (date 30 May 2006), *Antaranews*, www.republika.co.id/berita/dunia-islam/islam-nusantara/09/03/14/37141-masjid-al-muttaqun-potret-keberagaman; 'Masjid Al Muttaqun Potret Keberagaman', *Republika*, 13 March 2009.

house of Bani Ibrahim and TK ABA Ngangkruk, were totally ruined.[50] A number of Muhammadiyah leaders in Prambanan said they were almost sure that Hidayat Nur Wahid had given out falsified information for the sake of his party.

The conflict between the PKS and Muhammadiyah deteriorated even further in October 2006 when the PCM in Prambanan officially launched a plan for the rehabilitation of the TK ABA Ngangkruk building. According to Sajiran, the chairman of the PCM in Prambanan, the takmir took a number of steps to prevent this. It had invited leaders of the PCM and Aisyiyah in Prambanan to a number of meetings in which the takmir said Muhammadiyah had to choose between two options, which amounted to the same thing; i.e. to abandon the kindergarten, either by moving it to another place or renting a house for the kindergarten, or building the school elsewhere. The reason was that the takmir wanted to establish an Islamic centre on the premises of the TK ABA. In addition, on 14 October 2006, the head of the village also came out against rebuilding the school. In an official letter he instructed Muhammadiyah to cancel the plans for the official cornerstone-laying ceremony for the reconstruction of the TK ABA building.[51] The PCM did not comply and the ceremony took place on 15 October. It was attended by Amien Rais, former chairman of Muhammadiyah and the MPR,[52] and Chamamah Suratno, the chairperson of the central board of Aisyiyah.

Sajiran and other Muhammadiyah leaders in Prambanan said that they had been targets of intimidation prior to the cornerstone-laying ceremony. PKS activists and the takmir of Al Muttaqun had come to their houses and had threatened to harm them and their families if the ceremony went ahead. They added that the takmir had also warned them that they would burn and destroy the new building of TK ABA Ngangkruk once its construction was completed. Furthermore, Sajiran claims that Hidayat Nur Wahid had given money to high-ranking officials in Prambanan and Muhammadiyah members in an effort to prevent

50 Interview with leaders of Muhammadiyah, Prambanan, 30 April 2012.

51 Official letter from the head of the village of Kebondalem Kidul to the Pengurus Cabang Muhammadiyah in Prambanan on the objection of an official regarding the plans for the cornerstone-laying ceremony, No. 141/56/X/2006.

52 Prior to the ceremony, the PCM met with Amien Rais to discuss the possibility of him attending the ceremony and to consult with him about the conflict between the PKS and Muhammadiyah in Prambanan. According to Sajiran, Amien Rais strongly rejected the takmir's plan to close the TK ABA. He also considered it wrong that Bani Ibrahim had accepted money in exchange for moving house. Amien Rais gave 30 million rupiah to Bani Ibrahim (Ahmadi) and asked him to return the money to the takmir.

Amien Rais speaking at cornerstone-laying ceremony for the reconstruction of the TK ABA Ngangkruk building (by courtesy of PCM Prambanan)

the rebuilding of the kindergarten. Mursyid Suprihatin, a teacher at the Muhammadiyah school in Prambanan, and Slamet Sugimin, one of Muhammadiyah activists in Prambanan, were mentioned. They would receive a Rp. 5 million monthly salary from the Al Muttaqun Foundation if they sided with Hidayat Nur Wahid, rather than with Muhammadiyah. In addition, Hidayat Nur Wahid would have given free tickets for an exclusive pilgrimage package (*Haji-plus*) to the heads of the sub-districts (*camat*) of Prambanan and Ahyadi.[53]

Worried by the conflict over Al Muttaqun, the head of Klaten kabupaten invited Muhammadiyah and the PKS leaders to a series of meetings in order to arrive at a solution.[54] It is also reported that national leaders of Muhammadiyah held a number of informal meetings with Hidayat Nur Wahid to discuss the problem.[55] A compromise was reached. Whereas the takmir of Al Muttaqun would be responsible for mosque affairs and the rebuilding of the mosque, Muhammadiyah would be allowed to continue with its plan for the construction of a new building for the TK ABA Ngangkruk next to the mosque. However, this

53 Interview with Sajiran, 3 April 2012.

54 The conflict between the PKS and Muhammadiyah received attention from the head of the regency (*bupati*) of Klaten to whom the PCM complained about the attitudes of the local officers in Prambanan. The bupati then invited the heads of the sub-district and of the village to his office and instructed them not to challenge the PCM's plan to rehabilitate the TK ABA building.

55 Interview with anonymous, 23 March 2012.

did not mean that the tension between the two disappeared. A number of Muhammadiyah activists in Klaten remain of the opinion that the PKS had, in their words, sabotaged and taken over their mosque. In a series of interviews, they left no doubt that, in their opinion, the conflict between the two sides was far from over, pointing out that the affair had generated a '*perang*' or war between the PKS and Muhammadiyah at the local level. Furthermore, from the moment the dispute over the mosque emerged, Muhammadiyah leaders in Prambanan refused to visit the mosque to perform prayers or other religious rituals, out of resentment.

The takmir rejected the accusations of sabotage and of using the mosque for PKS politics; emphasising that the mosque was endowed for Muslims in Kabondalem Kidul, Prambanan, and open to all Muslims, regardless of their backgrounds, Ahyadi maintains that Muhammadiyah is in fact still in control of the mosque as a majority of the takmir members have a Muhammadiyah background.[56] However, Ahyadi's arguments seems to be apologetic as the problem of changing the management of the mosque from Muhammadiyah to the PKS – not to mention sabotage and infiltration – is acknowledged by Muhammadiyah colleagues as well as the people who live near the mosque.

According to some Muhammadiyah members in Klaten, the politicisation of the Al Muttaqun mosque by the PKS is quite obvious. They point to a number of cases that indicate that the mosque is becoming a place for political mobilisation by the PKS, such as through mabit and liqo meetings. In addition, a prominent Muhammadiyah leader in Prambanan says that he received many complaints from the parents of students of the Muhammadiyah Boarding School/MBS in Prambanan. They received a leaflet issued by the Al Muttaqun Foundation inviting them to enroll their children at an Islamic school (Islamic centre) that was to be founded by Hidayat Nur Wahid and the takmir of Al Muttaqun.[57] Sajiran also points out that the exclusion of Muhammadiyah from the takmir and the list of *khatib* (preachers of the Friday sermon) of the mosque also shows that the takmir has excluded Muhammadiyah and uses the mosque for PKS's political ends.[58]

Even though he admitted that in 2007 Hidayat Nur Wahid had paid for his pilgrimage, Ahyadi rejected the accusation that the PKS has used the Al Muttaqun mosque for political mobilisation. He stressed that the

56 Interview with Ahyadi, 22 April 2012.

57 Interview with anonymous person, 23 March 2012; Iskak Sulistita, General Secretary of Pengurus Daerah Muhammadiyah/PDM, interview, 9 April 2012, Darwanto and Husni Thamri, PDM Klaten, interview, 13 April 2012.

58 Interview with Sajiran, 3 April 2012.

Al Muttaqun mosque serves as a religious institution for Muslims in Kebondalem Kidul, Prambanan, to express their religiosity. Moreover, the takmir of the mosque had explained to Muhammadiyah that they were not attached to a certain political party. The primary task of the takmir is to serve the religious needs of the people living near the mosque and to organise religious activities such as the five daily prayers. Countering the accusation that the takmir excluded Muhammadiyah members from joining the congregation, Ahyadi made the case that a number of Muhammadiyah leaders are still involved in the management of the mosque and that the takmir invited a khatib from Muhammadiyah to deliver Friday sermons in the mosque.[59] Ahyadi's explanation however did not impress Muhammadiyah leaders in Prambanan. He was called a snake in the grass and was accused of being a spy for Hidayat Nur Wahid in Muhammadiyah circles. Because of this, Ahyadi failed to become chairman of the PCM in 2010. Sajiran was re-elected.[60]

Having experienced what it considers to be sabotage and infiltration, and responding to the 2006 circular letter from the Muhammadiyah central board concerning the protection of Muhammadiyah assets, the local board of Muhammadiyah in Klaten has taken measures to protect its mosques from other acts of 'sabotage'. It has initiated a so-called '*bersih-bersih*' or purification programme intended to protect Muhammadiyah assets, to get rid of PKS activists in Muhammadiyah, and to shield the minds of Muhammadiyah followers from the tarbiyah ideology. In an interview, Iskak Sulistiya, the General Secretary of Pimpinan Daerah Muhammadiyah/PDM in Klaten, explains that up to now this has taken two forms: *plangisasi* (labelling the mosque) and *dai muqim* (the resident Islamic preacher). In the plangisasi a 'label or stamp' is given to every Muhammadiyah mosque, leaving no doubt that they indeed belong to Muhammadiyah. Through dai muqim, Muhammadiyah invite their activists at the local level to participate in training courses for mosque management. In addition to improving the skills of Islamic preachers through training, Muhammadiyah in Klaten also provide financial support to promote mosque-based outreach programmes and to protect Muhammadiyah mosques.[61] Furthermore, the current chairman of the Muhammadiyah branch in Prambanan considers the issuing of notary deeds for Muhammadiyah assets in Prambanan to be of primary importance, as it protects Muhammadiyah's schools and mosques from further attempts at sabotage.

59 Interview with Ahyadi, 22 April 2012.
60 Interview with anonymous person, 13 March 2012.
61 Interview with Iskak Sulistiya, 9 April 2012.

6 Conclusion

The multi-functionality and significant position of the mosque can, in many cases, lead to disputes and conflicts over it. As discussed above, the case of Al Muttaqun demonstrates that the mosque has become a ground for potential arguments, disputes and conflicts among Muslim agencies. The conflict between the PKS and Muhammadiyah over the management of the Al Muttaqun mosque is one example demonstrating the multi-functionality of the mosque and its significance in the practice of 'Muslim politics'.[62] In addition, it is also important to take into account the shifting nature of disputes over mosques in Indonesia. Prior to the reformation era, Islamic rituals had been one of the primary issues of dispute between Islamic proponents, while after 1998 politics came to play a key role. The Al Muttaqun case further demonstrates that the mosque, as the centre of religious rituals for Muslims, has played a significant role in the dissemination of a certain interpretation of Islam as well as in political mobilisation. Because of this, the principle of the neutrality of the mosque is called into question.

As far as the dispute over the Al Muttaqun mosque is concerned, the conflict is in essence an internal organisational confrontation as it represents the dynamics within a certain Muslim group. The dispute over the Al Muttaqun mosque in Prambanan demonstrates that the conflict involved different groups within Muhammadiyah. Therefore, the so-called external interference of the PKS is probably better understood in terms of the internal dynamics of Muhammadiyah as some of its members later joined another group (i.e. PKS). Pragmatism does seem to be the driving factor determining this later development by Muhammadiyah activists. This argument is probably applicable to other cases involving activists of NU and other Indonesian Muslim organisations. In addition, this contribution further demonstrates that disputes over mosques and Muhammadiyah's assets in general are taking place among Muhammadiyah elites at a local level, rather than the national one. Even though national leaders of Muhammadiyah have had a number of meetings with PKS leaders to lessen the tension between the two organisations, it seems that those meetings had little impact at the local level. There, leaders and members of Muhammadiyah remain suspicious of the PKS, seeing the party as a threat to Muhammadiyah assets. This suspicion manifests itself in the use of the word perang and the bersih-bersih programme.

62 Dale F. Eickelman and James Piscatori, *Muslim Politics*, 2nd ed. (Princeton: Princeton University Press, 2004).

To conclude, and to position the case in a more general trend, this specific form of conflict over the mosque may become more frequent in Indonesia in the future. Therefore, as a recommendation for future research on mosques in Indonesia, the variety of mosques in contemporary Indonesia is an important subject of inquiry. The research should also include a discussion of the central position of the mosque in the religious sphere of Muslims, as well as the socio-political position of the mosque in the Indonesian public sphere. One of the important questions concerning the latter is the extent to which the mosque plays a significant role in political mobilisation, in addition to looking at models of mosque-based engagement in politics. Another important subject for examination is the relationship between Indonesian Muslim organisations and political parties, mainly Islamic parties. In order to do so, the clear-cut differentiation of civil society, on the one hand, and political society, on the other, must be critically questioned.

3 Enforcing Religious Freedom in Indonesia

Muslim Elites and the Ahmadiyah Controversy after the 2011 Cikeusik Clash

Bastiaan Scherpen

1 Introduction

The Ahmadiyah controversy in Indonesia took a deadly turn for the worse in February 2011 when an angry mob clashed with followers of the sect in a remote village in Banten province, brutally killing three men in the process. As graphic footage of the Cikeusik mob attack circulated on YouTube, Islam-based organisations and parties were forced to take a stand. In this chapter, the aftermath of this attack will be used as a case study to examine the attitudes and behaviour of mainstream Islamic organisations and Islam-based political parties. Based largely on personal interviews and an examination of statements in various media and in the House of People's Representatives (Dewan Perwakilan Rakyat/DPR), this contribution shows that there is considerable divergence between proposals by politicians and those by civil society groups associated with their parties about how to deal with a sect almost unanimously seen as deviant in Indonesia. It is shown that while major civil society groups like Nahdlatul Ulama and Muhammadiyah seem to advocate pragmatic solutions, Islamic idealism often prevails in the political arena.

2 Muslims, Minorities and Democracy[1]

While the sprawling Indonesian archipelago is often said to be a vanguard of 'pluralist' or 'moderate' Islam – as opposed to more 'radical' Islamic ideas and practices said to be prevailing in Middle Eastern countries –

1 Besides the people who kindly freed up some of their valuable time for an interview with me (and who are mentioned throughout this paper), I would like to thank the following people for their feedback, advice and help in contacting sources: Martin van Bruinessen, Kees van Dijk, Ridho al-Hamdi, Ahmad-Norma Permata, Nico J.G. Kaptein, Anita Rachman and Moch Nur Ichwan.

a number of developments in recent years have led people to start questioning the idea of Indonesia as a representative of 'Islam with a smiling face'.[2] But of all the focal points in the ongoing discussion of where Indonesia is headed in terms of democratisation, controversies surrounding the freedom of worship have probably generated the most attention, internationally as well as domestically. The presence of the minority Muslim[3] sect, Ahmadiyah, is one of those controversies. The most important theological point of contention in the ongoing Ahmadiyah debate is the status of Mirza Ghulam Ahmad (1835–1908), and there is a long history in terms of highly complex claims and counter-claims with regard to the nature of Ghulam Ahmad's religious leadership.[4]

Indonesia's government has experienced considerable difficulties in coming to terms with the presence of the sect – an issue that was not really an issue until a powerful lobby group decided to take it up a decade ago.[5] The issue has proven to be particularly divisive and has led to heated debates across Islam-based organisations in recent years. The Indonesian Ulama Council (Majelis Ulama Indonesia, MUI) declared Ahmadiyah a deviant sect in several fatwas, most recently in 2005, and hardline groups have even threatened to topple the government if it fails to issue an outright ban on the sect. While Ahmadiyah communities

2 Martin van Bruinessen, 'What happened to the smiling face of Indonesian Islam? Muslim intellectualism and the conservative turn in post-Suharto Indonesia', *RSIS Working Paper* No. 222, 6 January 2011, www.rsis.edu.sg/publications/workingpapers/wp222.pdf.

3 Whether or not Ahmadis are actually Muslims is at the core of the controversy. I choose to refrain from taking sides in this highly complex debate and call Ahmadiyah a Muslim sect because Ahmadis identify themselves as Muslims.

4 A detailed examination of the debate on Mirza Ghulam Ahmad's status is beyond the scope of this chapter. Herman L. Beck presents Ghulam Ahmad's ideas and doctrinal differences between Ahmadiyah and mainstream Sunni Islam in 'The rupture between the Muhammadiyah and the Ahmadiyya', in *Bijdragen tot de Taal-, Land- en Volkenkunde* 161–162 (2005): 210–246, 215–219. Erni Budiwanti's account: *Pluralism collapses: A study of the Jama'ah Ahmadiyah Indonesia and its persecution*, Asia Research Institute Working Paper Series No. 117, National University of Singapore, 2009, is more comprehensive. For a detailed refutation of many accusations commonly levelled at Ahmadis see M.A. Suryawan, *Bukan sekedar hitam putih. Kontroversi pemahaman Ahmadiyah* (Tangerang: Azzahra Publishing, 2005).

5 International Crisis Group, *Indonesia: Implications of the Ahmadiyah decree*. Asia Briefing No. 78. Jakarta/Brussels, 7 July 2008: 2–3, 14–15.

throughout the country suffered intimidation and physical violence, the government issued a Joint Ministerial Decree (Surat Keputusan Bersama/SKB) of the Minister of Religious Affairs, the Attorney General and the Minister of the Interior on 8 June 2008. This SKB outlawed any form of Ahmadiyah proselytisation but did not ban the organisation itself. Human rights groups lamented what they saw as a restriction on the freedom of worship while hardline groups slammed what they considered to be a half-hearted move taken under foreign pressure. It was against this background that on 6 February 2011, three Ahmadis were brutally slain in the village of Umbulan, in the Cikeusik sub-district of Pandeglang in Banten province.

With the Ahmadiyah controversy taking a deadly turn for the worse and graphic footage of the Cikeusik mob attack circulating on YouTube, Islam-based organisations and parties were forced to take a stand. It is this topic that I will use here as a case study to examine the attitudes and behaviour of mainstream Islamic organisations like Nahdlatul Ulama and Muhammadiyah and Islam-based political parties[6] in Indonesia's House of People's Representatives. This chapter will show that there is considerable divergence between politicians and the civil society groups associated with their parties with regard to proposals on how to handle the Ahmadiyah issue. Islamic idealism prevails among politicians while civil society groups generally seem to be more pragmatic in handling the issue. This divergence is much less visible when making a comparison along the lines of traditionalists, modernists and tarbiyah activists – the various groups traditionally seen as broadly making up the landscape of Indonesian Islam – and which – as Syaifudin Zuhri shows in his contribution to this book – are involved in a struggle for various social spaces in the religious domain, like mosques.

6 The Prosperous Justice Party (Partai Keadilan Sejahtera/PKS), National Mandate Party (Partai Amanat Nasional/PAN), United Development Party (Partai Persatuan Pembangunan/PPP) and National Awakening Party (Partai Kebangkitan Bangsa/PKB) are (more or less) Islam-based, but are relatively small parties. The Democratic Party (Partai Demokrat/PD), the Golkar Party (Partai Golongan Karya/Golkar) and the Indonesian Democratic Party – Struggle (Partai Demokrasi Indonesia – Perjuangan/PDI-P) are the largest parties but – although far from 'secular' – do not stake a claim to Islam. Of all the parties mentioned here, only the PDI-P is not represented in President Susilo Bambang Yudhoyono's Second Indonesia United Cabinet.

3 The State

Noted lawyer Adnan Buyung Nasution, who served as President Susilo Bambang Yudhoyono's top legal adviser (2007–2009), says that he strongly argued against disbanding Ahmadiyah but that the SKB was still issued as a compromise due to pressure from hardliners.[7] This seems to be confirmed in a confidential diplomatic cable of 11 June 2008 in which the US Embassy in Jakarta reported to Washington on the SKB's coming into force. The cable states that embassy officials had raised US concerns about the decree with one of Yudhoyono's foreign affairs advisers, who allegedly told the Americans that the decree's ambiguous wording was 'a delicate balance' and that 'we have to be a little tricky' in devising a compromise.[8]

In terms of both domestic laws and international covenants and declarations, however, there is no lack of willingness on the part of the Indonesian government to show its dedication to the freedom of religion. To name a few examples, in 2005 Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR), while 60 years earlier the fledgling republic had already mentioned in its constitution that '[t]he state will guarantee the freedom to every resident to adhere to their respective religion and to perform their religious duties in accordance with their religion and that faith'.[9]

3.1 Executive Branch: Dialogue that Remained a Monologue

In the immediate aftermath of the deadly Cikeusik incident, President Yudhoyono surprised observers with a statement that many considered rather mild. He said he 'regretted' the fact that people had died. He did order a thorough investigation and said that police apparently had failed to offer protection.[10] Djoko Suyanto, the coordinating minister for Political, Legal and Security Affairs, added that the government 'condemns whoever is behind violence against any Indonesian citizen'.

7 Adnan Buyung Nasution, *Nasihat untuk SBY* (Jakarta: Kompas Media Nusantara, 2012): 88–107.

8 [US] Embassy Jakarta, Cable No. 08JAKARTA1143, 'Sect members allowed to worship despite edict'. Created 11 June 2008, released by WikiLeaks on 30 August 2011, http://wikileaks.org/cable/2008/06/08JAKARTA1143.html (accessed 10 September 2011).

9 Muhammad As'ad, 'Ahmadiyah and the freedom of religion in Indonesia', *Journal of Indonesian Islam* 3–2 (December 2009): 390–413, 392–393.

10 'Police negligent in Ahmadiyah attack: Yudhoyono', *Tempo*, 8 February 2011, www.tempo.co.id/hg/nasional/2011/02/08/brk,20110208-312084,uk.html (accessed 5 October 2011).

However, he also called on the Ahmadiyah community to 'respect the joint [ministerial] agreement signed in 2008'.[11]

Suryadharma Ali, a graduate of IAIN Syarif Hidayatullah (1984) and a former Indonesian Islamic Student Movement (Pergerakan Mahasiswa Islam Indonesia/PMII) activist who has been the chairman of the PPP since 2007, is an important player in the Ahmadiyah controversy, not only because he is the religious affairs minister, but also because he has said that Ahmadiyah should be disbanded, in a more or less personal note.[12] Officially, however, the Minister so far has maintained his support for the SKB while, as he said, the government is working on a more permanent solution. Representatives of the main Ahmadiyah organisation in Indonesia, the Indonesian Ahmadiyah Community (Jemaat Ahmadiyah Indonesia/JAI), nevertheless refused to attend a meeting with Suryadharma Ali at the Religious Affairs Ministry, planned for 22 March 2011, saying the Minister could not be expected to be a fair facilitator for dialogue. 'From the start he has been intent on disbanding Ahmadiyah', JAI spokesman Zafrullah Ahmad Pontoh said.[13] The smaller Indonesian Ahmadiyah Movement (Gerakan Ahmadiyah Indonesia/GAI),[14] however, did join the meeting.

3.2 Legislative Branch: The Search for a Solution

On 9 February 2011, three days after the Cikeusik incident and a religion-inspired riot in Temanggung,[15] Central Java, the DPR's Commission VIII

11 'SBY orders investigation into fatal attack on Ahmadiyah', *Jakarta Globe*, 7 February 2011, www.thejakartaglobe.com/home/sby-orders-investigation-into-fatal-attack-on-ahmadiyah/421163 (accessed 18 March 2012).

12 'Ahmadiyah: Daripada dibiarkan, lebih baik dibubarkan', *PolitikIndonesia*, 28 February 2011, http://politikindonesia.com/index.php?k=politisiana&i=19223 (accessed 8 October 2011). It is also worth noting that the minister supported 'dialogue' as a way of bringing groups seen as deviant back to mainstream Islam: see 'Shia Conversion Is Solution: Minister', *The Jakarta Post*, 6 September 2012, www.thejakartapost.com/news/2012/09/06/shia-conversion-solution-minister.html (accessed 7 January 2013).

13 'Menag tidak fair, alasan Ahmadiyah absen dialog', *PolitikIndonesia*, 23 March 2011, http://politikindonesia.com/index.php?k=politik&i=20144 (accessed 8 October 2011).

14 Worldwide, there are two main groups of Ahmadis, the Qadian community and the Lahore community. They view Mirza Ghulam Ahmad in a slightly different light, with the Lahore Ahmadis saying he was a reformer (*mujaddid*) of the faith, and not the Messiah. In Indonesia, the GAI represents the latter group.

15 On 8 February 2011, a Muslim crowd went on the rampage in the Central Java

for Religion, Social Affairs and Women's Empowerment (chaired by PKB politician Abdul Kadir Karding until he was replaced in February 2012) met with the Minister of Religious Affairs and National Chief of Police General Timur Pradopo to discuss the government's role in protecting interreligious freedom and harmony and how to prevent violence. The Minister said that the 1945 Constitution guarantees each citizen freedom of religion and belief as well as freedom of worship, but he added that 'in exercising these freedoms every person is subject to restrictions specified in the laws'. Suryadharma Ali also said that Ahmadiyah had been causing trouble from the start.[16]

3.2.1 *Traditionalist Parties: PKB and PPP*

The leader of the PKB faction in the DPR and a chairman of the party's Central Leadership Board (DPP), Marwan Ja'far, said immediately after the Cikeusik incident that '[t]he attack on Ahmadiyah members is highly immoral, in violation of human rights and denies the principles of Islam's peaceful teachings'. He called the attack 'a setback for religious life in Indonesia' and said people should not take it upon themselves to decide who is an infidel and who is not.[17]

During meetings of the DPR's Commission VIII, Ali Maschan Moesa did most of the speaking for the PKB. On 9 February, during the meeting with the religious affairs minister and the chief of national police, Moesa suggested a re-evaluation of current policies, to see whether they were wise in the context of interreligious dialogue. He also argued for a re-formulation of the SKB, saying that apparently it did not solve any problems. Just calling somebody an infidel (*kafir*) is easy, he said, and is the sign of a very shallow understanding of Islam. He stressed the need for dialogue, as even when people agree that others are wrong, there should be talk, not violence. 'We cannot just say: leave Islam, while people actually want to be Muslims', Moesa said.[18]

town of Temanggung, after a Christian man was sentenced to five years in prison for blaspheming Islam – which the crowd deemed insufficient. Several churches and government buildings were subsequently vandalised.

16 DPR-RI, *Risalah rapat* [Minutes of a meeting of Commission VIII with the minister of Religious Affairs and the national police chief], 9 February 2011, www.dpr.go.id/id/komisi/komisi8/risalah/1708/Raker-dengan-Menteri-Agama-dan-Polri (accessed 18 March 2012).

17 'Sejumlah partai Islam kutuk tragedi Cikeusik', *PolitikIndonesia*, 7 February 2011, http://politikindonesia.com/index.php?k=politik&i=18162 (accessed 8 October 2011).

18 DPR-RI, *Risalah Rapat* 9 February 2011.

For the PKB, the Ahmadiyah issue also seems to have been used as an opportunity to showcase its ties to the NU, of which it claims to be the sole legitimate political representative. According to then Commission VIII Chairman Karding,[19] the PKB follows the decisions of the NU's Central Leadership Board (PBNU). Asked what he thought about the position of one of the most liberal *kyais*, or religious leaders, at the top of the NU, Masdar Farid Mas'udi (whose views will be discussed in greater detail below), Karding said he agreed that only God is able to decide whether someone's beliefs are deviant or not. At the same time, the young PKB politician said the Ahmadiyah presence posed a very complex political challenge, mainly from the legal point of view. 'Ahmadiyah has to be regulated, but the SKB has no [legal] power', he said, adding that it would be difficult to decide whether Ahmadiyah could legally be seen as a religion in itself (*agama*) or as a stream (*aliran*) within Islam. Karding concluded that the best solution was to come up with an umbrella law that would also deal with Ahmadiyah and that would, once and for all, guarantee religious harmony in Indonesia.

On the more conservative side of Muslim politics, the PPP is a staunch supporter of an outright ban on Ahmadiyah. PPP politicians themselves describe the party as the only true representative of pluralist Indonesian Islam, and people from most mainstream Islamic organisations indeed are active in the party. Unlike the PKB, which is based on Pancasila, the PPP is based on Islam, because it wants to stress that it believes only Islam is the true *rahmatan lil alamin* (blessing for all creation).

Suryadharma Ali is the general chairman of the PPP, but, as mentioned, because he is also the Minister of Religious Affairs, he was obviously expected not to stray too far from the official government line in the Ahmadiyah controversy. PPP lawmakers do not face such restrictions and, after Cikeusik, seem to have been trying to make up for this limitation faced by their political leader.

On 9 February, Commission VIII member Hasrul Azwar made the case for disbanding the sect by explaining that ever since Ahmadiyah had arrived in Indonesia in the 1920s, there had been trouble. He even had a bad experience himself: when once in Medan, North Sumatra, he performed *salat*, the obligatory prayer, at an Ahmadiyah mosque. After he was done and the space he had occupied was cleaned with water, he said, '[b]ut who is the infidel: me or the Ahmadiyah?'.[20]

According to Hasrul Azwar, all the government had to do was act decisively and disband Ahmadiyah. The lawmaker also said that the

19 Interview with Abdul Kadir Karding, Jakarta, 13 October 2011.

20 DPR-RI, *Risalah Rapat*, 9 February 2011.

Ahmadiyah issue should not be classified as a human rights issue. 'It's sacrilege, desecration of the religion I profess', he said, adding that people should not hide behind human rights to insult religion. A week later, also at the DPR and facing JAI leader (*amir*) Abdul Basit, Hasrul Azwar made sure there would be no misunderstanding about his position. Ahmadiyah beliefs were substantially different from true Islam, he stressed, and there was only one solution: 'Disband Ahmadiyah!.'[21]

However, outside the DPR, at least one senior PPP politician held a less combative position right after the Cikeusik clash. Lukman Hakim Saifudin, the deputy head of the People's Consultative Assembly (Majelis Permusyawaratan Rakyat/MPR), a chairman of the PPP's central leadership board and a former NU activist, said the violent acts could not be justified, but he also stressed that all parties involved should respect the SKB.[22] That sentiment was shared by M. Arwani Thomafi, another PPP chairman and also a member of Commission VIII at the time of the Cikeusik incident. Arwani said he believed that with the SKB there were sufficient legal grounds to ban Ahmadiyah, but that the Susilo Bambang Yudhoyono government apparently did not want to 'follow through on what has already been decided at the level of the Religious Affairs minister' based on 'its [the government's] own political considerations'.[23]

Regarding the Ahmadiyah issue, Arwani stressed there had been no reconsideration of the party line after Cikeusik. The PPP had made up its mind and it was up to the president to act, he explained. The reasoning behind this stance is that the PPP sees Indonesian society, or at least its constituents, as people for whom religion plays a very important role. This does not mean, however, that those people are fundamentalists or opponents of pluralism, Arwani pointed out. 'Indeed it has been proven that Indonesian society is a society that can be united by Pancasila', he said. But when it came to religious beliefs, he said, that was something deeply rooted in people's hearts, 'which should be seen as a fundamental issue'. He added that for Christians or Hindus it would also be unacceptable if something that was considered holy were to be mocked or even abused. 'Muhammad in Islam is considered very noble, and very sacred, protected from sinful acts. If this concept is being violated, what happens is that the people get really angry'.

21 Statements from this 16 February 2011 meeting between representatives of the JAI and members of the DPR's Commission VIII are taken from a recording by *TV Parlemen*.

22 'Sejumlah partai Islam kutuk tragedi Cikeusik', *PolitikIndonesia*, 7 February 2011.

23 Interview with M. Arwani Thomafi, Jakarta, 25 July 2011.

For Arwani, the Ahmadiyah issue was not a problem of pluralism, but an internal problem of Islam. 'It has no relation at all to pluralism, and nor is it in any way tied to the freedom of religion', he said. When it comes to human rights, Arwani stressed that these are limited by other people's human rights, which, however, do indeed to include the freedom to adhere to any religion of one's choice. 'But don't follow a religion that destroys other religions', he said. 'Christians believe that God is Jesus. What if all of a sudden a person appears who claims to be a Christian, but his God isn't Jesus? His God is Goliath, for example, or Pharaoh …? Christians would get angry, right?'

3.2.2 *The Initiative Lies with Ahmadiyah:* PAN

The National Mandate Party (PAN) was founded in 1998 by a group of reform-minded people that included the Muhammadiyah general chairman of the time, Amien Rais. It is therefore often seen as a Muhammadiyah-linked party, but in fact there are no structural links between the two organisations, and the PAN is not based on Islam. It does however see religion as the 'moral and ethical foundation of nation and state'.[24]

During the 9 February hearing of Commission VIII, Amran and Dewi Coryati spoke on behalf of the PAN. Amran argued that the SKB really needed to be made better-known at the grassroots level of society, as he had contacted some leaders in his constituency who only after the Cikeusik incident had heard – on television – about the very existence of the SKB. Amran, from South Sulawesi, later explained[25] that his party does defend freedom of religion, but in the sense of 'enjoying religion in line with its teachings'. Christians, for example, are free to worship based on the Bible. But in the case of Ahmadiyah, it is clear that the sect is deviant because Islamic leaders – and even the Qur'an – have made it very clear that Muhammad is the final prophet. 'Ahmadiyah says there is another one after the last one. That deviates from the Islamic Shariah', he said. 'Therefore there are two alternatives: if Ahmadis want to identify themselves as Muslims, they have to return to Islam's teachings. And if they do not want to return to Islam's teachings, they should leave Islam.' But the lawmaker also stressed that Ahmadis have the right to live in Indonesia as citizens of the Republic and that dialogue was the only solution.

During the 16 February meeting with the JAI leader, most of the speaking for the PAN was being done not by Amran, but by Ahmad

24 'Platform Partai Amanat Nasional', *Partai Amanat Nasional*, www.pan.or.id/index.php?comp=home.detail.99 (accessed 12 November 2011).

25 Interview with Amran, Jakarta, 1 August 2011.

Rubaie, the faction's deputy chairman at the DPR. He said that blood should not have flowed, calling the Cikeusik incident a violation of human rights. But he explained that every religion has its leaders and that for Indonesian Muslims the guide should be the MUI, which 'cannot enforce beliefs but it does have the authority to explain, socialize and teach'. And as the MUI issued a fatwa in 2005 declaring Ahmadiyah deviant, the best solution would be that Ahmadis return to Islam, to 'maintain the purity of the Islamic ummah'. Differences of interpretation should then be left to the MUI. 'If they do not want to join Islam', the PAN politician said, 'they have to declare a new religion'. The initiative lies with Ahmadiyah.

3.2.3 *Real-world Implications: The PKS*

The PKS in recent years has received more attention from scholars and media than all the other more or less Islam-based parties combined, probably because of widespread fears – in Indonesia and abroad – of its Islamist agenda. It is a well-organised party that takes Islamic issues very seriously, but it seems to be particularly concerned with morality issues like the anti-pornography legislation that was passed in 2008.[26] With regard to the Ahmadiyah controversy, the PKS's Central Shariah Board (Dewan Syariah Pusat/DSP) had, as early as in May 2008, made its position abundantly clear in a detailed *bayan* (explanation taking the shape of a fatwa).[27] What is most interesting about this bayan is that it explicitly refers to the practical implications of Ahmadiyah's deviance for Muslims – something that other political parties and also civil society groups seem less concerned about.

According to the DSP, led by KH. Surahman Hidayat (who in October 2011 briefly became deputy chairman of Commission VIII), 'Ahmadiyah has desecrated the holiness of Islam, desecrated the holiness of the Qur'an and desecrated the Prophet Muhammad SAW as the final prophet and messenger'. Ahmadis who have already been told about their deviance and who refuse to repent have to be considered *murtad* (apostates) and *musyrikin* (idolaters), not as *ahlul kitab* (People of the Book, like Christians). Furthermore, as a legal consequence of the Ahmadiyah followers' apostasy, '[i]t is not halal to marry an Ahmadiyah woman, to let a Muslim woman marry an Ahmadiyah man or to eat the meat of animals slaughtered by an Ahmadi'. Also, someone who dies as a follower

26 PKS observer Ahmad-Norma Permata pointed this out to me.

27 'Bayan DSP PKS Nomor: 17/B/K/DSP-PKS/1429 Tentang Ahmadiyah', 9 May 2008, http://harakatuna.wordpress.com/2011/02/10/bayan-dsp-pks-tentang-ahmadiyah-1429-2008/ (accessed 18 December 2011).

of Ahmadiyah cannot be given Muslim funerary rites or prayers and is not allowed to be buried in a Muslim cemetery.[28]

The bayan of the DPS is the most detailed exposé of the practical consequences of the perceived deviance of Ahmadis and shows a preoccupation of the more religion-minded elements within the PKS with practical Islam. But on the political level, PKS lawmakers have also been calling upon the government to act firmly against Ahmadiyah, primarily to prevent conflict within society.[29] Former KAMMI[30] activist and now senior PKS parliamentarian Mahfudz Siddiq said in 2010 that it was time for the government to act.[31] He said that if the government had a reason to disband Ahmadiyah, it had better go ahead. 'There already is the MUI fatwa, so the government already has clarity about Ahmadiyah's status, but so far this hasn't been executed'. Mahfudz said he feared that if the government continued to drag its feet on the issue, it would amount to 'inviting a dangerous situation'.

After Cikeusik, then-PKS secretary general Anis Matta[32] asked the police to act decisively against those responsible for the violence: '[a]lthough the background is religious, this is a criminal act'. Matta, who was also the deputy chairman of the DPR, added that the problems related to Ahmadiyah's status could be debated later, but that the legal issue of people being murdered should be the priority.[33] In an interview on the same day that Matta spoke, PKS lawmaker and member of Commission VIII Herlini Amran said two things should happen: the government should stand firm on the issue and Ahmadiyah should stop

28 In March 2011, in West Java's West Bandung district, residents of Cililin removed the (already-buried) body of an Ahmadi from an Islamic burial ground. See 'Makam pengikut Ahmadiyah dibongkar warga, jenazah diletakkan di tanah kosong', *Pos Kota*, 3 March 2011, www.poskota.co.id/berita-terkini/2011/03/03/makam-pengikut-ahmadiyah-dibongkar-warga-jenazah-diletakkan-di-tanah-kosong (accessed 18 December 2011).

29 For a detailed examination of the various camps within the PKS and their goals and strategies see Ahmad-Norma Permata's contribution to this book.

30 KAMMI, or Kesatuan Aksi Mahasiswa Muslim Indonesia (Action Unit of Indonesian Muslim Students), is not officially tied to the PKS, but shares its ideological outlook. Its positioning will be discussed in section 4 of this chapter.

31 'PKS: Penyelesaian Ahmadiyah Jangan Berlarut-Larut', Mahfudz Siddik's blog, 3 September 2010, http://mahfudzsiddik.blogspot.com/2010/09/pks-penyelesaian-ahmadiyah-jangan.html (accessed 21 September 2011).

32 Anis Matta replaced Luthfi Hasan Ishaaq as president of the PKS on 1 February 2013, after the latter resigned amid suspicions of his involvement in a major graft case.

33 'Sejumlah partai Islam kutuk tragedi Cikeusik', *PolitikIndonesia*, 7 February 2011.

claiming to be part of Islam. The root of the problem is one of faith, she said, adding that Ahmadis would have a pleasant life, side by side with people of other denominations, including Islam, if only they would let go of their claim to be part of Islam. From the government, Herlini was expecting clarity: '[t]he government, especially the Prosecutor's Office, really needs to take a firm stand against Ahmadiyah. You want to disband it or not? … Don't let it be undecided, like now. Like this, the Ahmadis themselves are put in danger.'[34]

Asked if she felt that Ahmadis' human rights were being violated by telling them to leave Islam, she said that 'not everything should be connected with human rights issues, especially issues related to belief and faith'. Discussing the 2005 MUI fatwa that some activists and Ahmadis themselves have blamed for the violence against the sect, Herlini said, 'the MUI has been carrying out its tasks properly and in accordance with prevailing legislation. In line with its task to protect Islam, the MUI has conducted an in-depth assessment of Ahmadiyah's presence. … Ahmadiyah's *aqidah* [creed] is distorted, so it should be declared heretical.' And therefore, Herlini said, 'the decree against Ahmadiyah cannot legitimately be seen as one of the triggers of the deadly violence in Cikeusik'. Herlini also said the government should listen to the Islamic ummah – the majority in Indonesia.[35]

In the meeting between lawmakers and senior government officials on 9 February 2011 lawmaker Jazuli Juwaini – from Banten – did most of the speaking for the PKS. He started by saying that he 'deplored' the fact that 'people were massacred in the name of religion'. 'All Indonesian citizens should be protected, whatever their beliefs, faith or religion', he said, criticising the chief of police by asking him how it was possible that mass violence such as that in Cikeusik could happen. He also wanted to know whether the attack was masterminded by someone and how it was possible that all of a sudden such a large crowd should show up in this relatively remote area. Addressing the Minister of Religious Affairs, Jazuli said that Ahmadiyah's controversial status should be clear by now, and that '[w]e have to differentiate between giving people freedom of religion and the desecration of religion'. And he added, 'religious freedom does not mean desecrating a religion that already exists'. He also said it was a good thing the minister invited Ahmadiyah to a dialogue, to tell them that if they want to use the name Islam, they should return to

34 'Herlini Amran: Sebaiknya Ahmadiyah buat agama baru saja', *PolitikIndonesia*, 7 February 2011, http://politikindonesia.com/index.php?k=wawancara&i=18180 (accessed 18 December 2011).

35 Ibid.

the true teachings of Islam, and if they do not want that, they should start their own religion – without using the name Islam. However, he stressed that 'no matter how much someone had deviated from Islam, nobody should be allowed to take the law into their own hands, killing people with impunity, destroying property – this can never be justified'.

4 Voices of Islam in Civil Society

Indonesia's mainstream, Islam-based political parties to some extent all fall back on social groups. The most important of these are the traditionalist socio-religious organisation Nahdlatul Ulama (the NU, founded in 1926) and the modernist Muhammadiyah (founded in 1912). It is difficult to give exact figures on the number of people affiliated to these organisations but totals run in the tens of millions for both, with the NU being the bigger of the two. Although there is no formal link, Muhammadiyah is often seen as tied to the PAN, as this party was founded in 1998 by the Muhammadiyah chairman at that time, Amien Rais. In a similar way, the PKB (founded in 1999) is tied to the NU. However, the PPP (founded in 1973 through a merger of four Islamic parties, including the NU) also targets the NU voter base. The PKS draws from the tarbiyah movement, has been particularly successful among urban voters, and is informally tied to the active and well-organised student group KAMMI.

The MUI, the organisation that has outlawed Ahmadiyah on religious grounds in no fewer than three fatwas since 1980, is of course another important player in Indonesian Islamic civil society, but its positioning does not fall within the scope of this contribution. Suffice it here to say that after the Cikeusik attack, it was quick to explain that violence against Ahmadis should not be tolerated. Slamet Effendy Yusuf, the head of the council's religious harmony division – and also one of the chairmen of the PBNU's Tanfidziyah, or executive council – advocated zero tolerance with regard to 'activities that lead to death'.[36] Theoretically, the MUI represents the broad spectrum of Indonesian Muslims, through the leaders of the many Islamic organisations in the country. It is a government-funded, but relatively independent organisation that aims to advise both the government and the ummah

36 'Zero tolerance buat kekerasan atas Ahmadiyah', *PolitikIndonesia*, 7 February 2011, http://politikindonesia.com/index.php?k=pendapat&i=18179 (accessed 16 March 2012).

with its fatwas. However, largely due to the one-organisation-one-vote system,[37] hardline groups have come to dominate the MUI.

In the next three sections, I will discuss the various positions on the Ahmadiyah issue taken up by key figures in Islamic civil society, starting with the NU.

4.1 Traditionalists: Dakwah with No Time Limit

Nahdlatul Ulama presents itself as the moderate voice of pluralist inclusivism and a run-of-the-mill socio-religious organisation facilitating democracy through its insistence on dialogue. The *nahdliyin* (NU followers), the argument goes, understand that the Qur'an does not condone violence against minorities and therefore are rarely involved in violence. In this sense, the NU masses are contrasted with the hardliners involved in the Cikeusik attack and those in Temanggung soon after, who 'use sticks rather than logic'.[38]

It is interesting to note that many prominent players in the Ahmadiyah controversy have roots in NU circles. This of course does not mean that the NU as an organisation bears any kind of responsibility for steps taken by such functionaries as part of their non-NU positions, but it does show that the NU is far from monolithic and that the traditionalist Islamic beliefs found at all levels of this socio-religious organisation can give rise to a wide array of perspectives, particularly in a politically delicate debate. One key player, for instance, is KH. Ma'ruf Amin. He is one of the chairmen of MUI's executive board and a member of President Yudhoyono's advisory council (Dewan Pertimbangan Presiden, Wantimpres), where he deals with religious affairs. As a former chairman of the Dewan Syuriah

37 Many, relatively small (compared with the NU and Muhammadiyah) groups like Hizbut Tahrir Indonesia and the Islamic Defenders' Front (*Front Pembela Islam*, FPI) have the same power as massive movements like the NU and Muhammadiyah, Ahmad Suaedy explains. See his 'Religious freedom and violence in Indonesia', in Ota Atsushi, Okamoto Masaaki and Ahmad Suaedy (eds.), *Islam in contention: Rethinking Islam and state in Indonesia* (Jakarta, Kyoto and Taipei: WI, CSEAS and CAPAS, 2010), 139–169. The late former Indonesian President and eminence grise of the NU, Abdurrahman Wahid, has called the MUI a 'bunker of radical Islam'. See Abdurrahman Wahid, 'Musuh dalam selimut', in Abdurrahman Wahid (ed.), *Ilusi Negara Islam. Ekspansi gerakan Islam transnasional di Indonesia* (Jakarta: Gerakan Bhinneka Tunggal Ika, Wahid Institute, Maarif Institute, 2010), 11–41, 39.

38 Zainal Abidin Nawawi, 'NU dan revitalisasi pluralisme agama', NU website, 28 February 2011, http://nu.or.id/page/id/dinamic_detil/4/27067/Kolom/NU_dan_Revitalisasi_Pluralisme_Agama.html (accessed 3 October 2011).

The head office of the Nahdlatul Ulama in Jakarta

(Advisory Council) and current member of the Dewan Mustasyar (Supreme (Advisory) Council), he also has serious NU credentials.

After the NU's leadership congress in 2010, Martin van Bruinessen, a longtime observer of the organisation, wrote:

> [w]ith this new board, NU is poised to seek a new balance between the conservatism and politicisation of the past period and the search for a new religious discourse of the 1990s. … The slide towards fundamentalist and anti-liberal religious views is unlikely to continue under the new board and it may even be reversed.[39]

In this light, it is a case in point that the NU sent KH. Masdar Farid Mas'udi as its representative to a meeting with Commission VIII on 17 February 2011. Masdar is one of the most liberal thinkers at the top of the NU. He is considered one of the seniors of liberal Islam in Indonesia[40] and is currently chairman (*rais*) of the Dewan Syuriah.

39 Martin van Bruinessen, 'New leadership, new policies?', *Inside Indonesia* 100 (April–June 2009), www.insideindonesia.org/weekly-articles-100-apr-june-2010/new-leadership-new-policies-16061866 (accessed 16 March 2012).

40 Budi Handrianto, *50 tokoh Islam Liberal Indonesia. Pengusung ide sekularisme, pluralisme, dan liberalisme agama* (Jakarta: Hujjah Press, 2007), 145–146.

At the DPR, Masdar said the main way to get followers of the JAI back into the fold of mainstream Islam is to open up a peaceful dialogue and refrain from forcing conventional beliefs upon them. 'Gently straighten them out. As is mentioned in the Qur'an, invite those whose understanding differs from ours, with dakwah, with good advice. If that doesn't work, argue with them politely. If you hit a wall, then so be it – leave it to Allah', Masdar told the lawmakers.[41] In the hearing, Masdar was reluctant to label Ahmadiyah a deviant sect. 'Humans do not have the right to determine whether a person's beliefs are heretical or not', he said. 'When it comes to religion, there is indeed such a thing as deviance. But if [this concept] is being used as a social norm, this will destroy our social life.'[42]

Years earlier, in a reaction to the 2005 MUI fatwa labelling Ahmadiyah deviant, Masdar had already raised his objections to the confrontational approach, predicting that it would only lead to more violence.[43] He believes that radical beliefs imported from the Middle East are to blame for the Ahmadiyah-related trouble in recent years.[44] According to Masdar, the reason why the NU never officially labelled Ahmadiyah deviant but merely 'different' is that such a label could be used as a licence to kill, or at least provoke violence. On a more personal level, he said it would be arrogant to make a decision on a matter that is only God's to decide. Although Masdar himself does not agree with Ahmadiyah beliefs about prophethood, he said the debate about religious interpretation should be open. In fact, crucial to his position is the belief that Muhammad was indeed the final prophet: '[t]he doctrine about the finality of prophethood', he said, 'basically leads to the doctrine of freedom of thought.'[45] Key to Masdar's argument is that because it is clear that there will not be any other prophets, it is up to the ummah to decide how to fulfill religious requirements: '[w]e no longer have to be afraid that [our interpretation

41 'Luruskan Ahmadiyah dengan kelembutan', *Kompas*, 17 February 2011, http://nasional.kompas.com/read/2011/02/17/22493848/NU.Luruskan.Ahmadiyah.dengan.Kelembutan, (accessed 16 March 2012).

42 Ibid.

43 Ahmad Subakir, Ilham Mashuri and M. Asror Yusuf, 'Respon tokoh Islam atas fatwa MUI tentang Gerakan Ahmadiyah Indonesia', http://ern.pendis.kemenag.go.id/DokPdf/ern-III-06.pdf (accessed 21 September 2011).

44 Interview with KH. Masdar Farid Mas'udi, Jakarta, 6 October 2011.

45 This is a position derived from the works of Muhammad Iqbal (1877–1938), particularly the concept of 'inductive intellect': see Iqbal, 'The spirit of Muslim culture', the fifth in his compilation of lectures entitled *The reconstruction of religious thought in Islam* (1930).

of Islam] will be blocked by someone with absolute authority [i.e., a prophet].' 'The only absolute truth that is left, is the Qur'an', he added.

The way out of the Ahmadiyah controversy, according to Masdar, would require two separate developments: the state should protect the basic rights of all citizens and mainstream Muslims should become more mature, with the faithful realising that it is not their responsibility to homogenise society. The two steps should remain separated, Masdar said, as '[t]he state does not have the right to judge whether beliefs are right or wrong'.

The general chairman of the NU, Said Aqil Siradj, although quick to denounce the Cikeusik violence and to call for harsh measures against the perpetrators, in his public statements stressed that Ahmadiyah teachings are not in line with those of the NU. However, he has been careful not to use the word 'deviant'. 'The Ahmadiyah teachings are rejected by all of Islam, that is true. But we cannot abuse them [Ahmadis]', he explained. He also said violence would only increase the distance between Ahmadis and mainstream Muslims, so the only solution to the problem would be a civilised dialogue to bring Ahmadis back on the right track: 'I, from NU, am ready for a discussion, a dialogue with Ahmadiyah. An objective discussion, not one to berate or harrass.' With talks, Said Aqil said, Ahmadis could accept the offer to return to the true teachings. 'Insya Allah, if the result is that a part of the Ahmadiyah community returns to Sunni Islam, alhamdulillah. I am not aiming for all of them to return to Sunni Islam.'[46] When asked about the possibility of disbanding Ahmadiyah, Said Aqil said such a step fell within the domain of the state, and therefore was beyond the NU's reach.[47] He also called acts like those in Cikeusik 'signs of a society that is uncultured and unethical'.[48]

The NU's Dewan Syuriah in an official explanation of its stance on the issue (*taushiyah*) said in relation to the Cikeusik incident that 'the teachings about Mirza Ghulam Ahmad's prophethood that are followed by Ahmadiyah are not in line with the creed of *ahlu-sunnah wal-jama'ah* [mainstream traditionalist (non-modernist) Sunni Islam]'. It also said

46 Imam Maruf, 'PBNU: Penyerangan Ahmadiyah adalah tindakan biadab', *Kabar Haji*, 7 February 2011, http://kabarhaji.com/kabar/1716/pbnu-penyerangan-ahmadiyah-adalah-tindakan-biadab (accessed 3 October 2011).

47 Edy M. Ya'kub, 'NU, Ahmadiyah, dan FPI', *Antara*, 5 March 2011, www.antaranews.com/berita/248702/nu-ahmadiyah-dan-fpi (accessed 3 October 2011).

48 'Penyerangan terhadap Ahmadiyah: Membenturkan Umat Islam kepada Negara', *Al Kisah Magazine*, 16 February 2011, http://majalah-alkisah.com/index.php/component/content/article/799-penyerangan-terhadap-ahmadiyah-membenturkan-umat-islam-kepada-negara (accessed 23 November 2011).

that differences in religious understanding can never be used to justify violence, and that the government is constitutionally responsible for legal enforcement and the protection of 'all citizens regardless of their religion or beliefs'.[49] However, a colleague of Masdar at the Dewan Syuriah, KH. Hasyim Muzadi, one of the more purist and political-minded people at the top of the NU, was quoted as saying in March 2011 that Ahmadiyah activity and proselytisation should be outlawed, as was stipulated in the SKB. Hasyim Muzadi believes the issue should not be framed in terms of freedom of religion: 'Ahmadiyah teachings really have to be brought to a halt, because they make the Islamic ummah vulnerable, except when Ahmadiyah becomes a religion of its own and not [claims to be part of] Islam. This has no relation to the freedom of religion, but only with desecration of religion', said the former PBNU general chairman (2000–2005 and 2005–2010).[50]

The current position of the NU, under the general leadership of Said Aqil, is thus more accommodating toward Ahmadiyah than the organisation's stance under the lengthy leadership of Hasyim Muzadi. During those eventful years, the Ahmadiyah issue was portrayed as a problem of desecration of religion rather than freedom of religion. 'Pancasila provides freedom of religion and belief to every citizen. But that does in no way mean it provides freedom to tarnish a religion that is considered legitimate in Indonesia', Hasyim Muzadi said after the issue of the SKB in June 2008.[51] The PBNU leader at the time also called the SKB an appropriate step to prevent Ahmadis from spreading their beliefs.[52] More interesting, however, is that there was a meeting of NU leaders in Bogor in September 2005, presided over by Ma'ruf Amin, Said Aqil Siradj, Masdar F. Mas'udi and Rozy Munir, to discuss the NU's formal stance in the Ahmadiyah debate. The results of the meeting – calling Ahmadiyah 'deviant and outside Islam [*sesat dan keluar dari Islam*]' – were placed on the official NU website in May

49 'Seruan anti kekerasan Syuriyah PBNU', 16 February 2011, www.nu.or.id/a,public-m,dinamic-s,detail-ids,6-id,26888-lang,id-c,taushiyah-t,Seruan+Anti+Kekerasan+Syuriyah+PBNU-.phpx (accessed 19 May 2012).

50 Edy M. Ya'kub, 'NU, Ahmadiyah, dan FPI'.

51 'PBNU: Pancasila jamin kebebasan beragama, tidak kebebasan menodai agama', NU website, 12 June 2008, http://nu.or.id/page/id/dinamic_detil/1/12741/Warta/PBNU__Pancasila_Jamin_Kebebasan_Beragama__Tidak_Kebebasan_Menodai_Agama.html (accessed 20 November 2011).

52 'PBNU minta Ahmadiyah tak lagi kembangkan ajarannya', NU website, 11 June 2008, http://nu.or.id/page/id/dinamic_detil/1/12736/Warta/PBNU_Minta_Ahmadiyah_Tak_Lagi_Kembangkan_Ajarannya.html (accessed 20 November 2011).

2008, right when pressure on the government to do something about Ahmadiyah was mounting. In the statement, the government was asked to 'take a firm and consistent stand in dealing with Ahmadiyah in Indonesia [*memiliki sikap yang tegas dan konsisten dalam menyikapi keberadaan aliran Ahmadiyah di Indonesia*]'.[53] However, according to Masdar this statement was in fact a draft version that was never accepted by a majority of the ulama attending the meeting.[54] His position was confirmed by one of the chairmen of the NU's executive board, Imam Aziz, who stressed that the NU has never officially labelled Ahmadiyah a deviant sect. 'NU would never call another group deviant [*sesat*], infidel [*kafir*] or heretic [*bid'a*]. That's an official decision. NU's basic attitude is like that', Imam said, adding that Ahmadis have a constitutional right to worship, and that nobody can take that away.[55] KH. Malik Madani, secretary general of the Dewan Syuriah, after the Cikeusik incident also made clear that for the NU the disbandment of Ahmadiyah was not an option.[56]

According to Imam Aziz, one of the founders of the Yogyakarta-based NGO LKiS, which is aimed at promoting inclusivist and tolerant understandings of Islam, the main problem in Indonesia is a lack of understanding – among the general population but also at government level – of the issue of minority rights. People have to stay within certain cultural or religious boundaries, Imam Aziz explained, and if they step outside those boundaries they are seen as deviant. 'And that is a problem, an ontological problem', he said. 'Ahmadiyah is seen as an aberration, and to cure it, they should come back to the mainstream.' For these reasons, Imam Aziz said the use of a human rights discourse – as opposed to dealing with the issue from a religious perspective – would be very useful. 'No matter how different they are from us, they still have rights.'

The NU's vantage point in the Ahmadiyah controversy has been the prevention of violence, Imam explained. He too said that he does not agree with the Ahmadis' ideas about prophethood, but added that violent

53 'Taushiyah: Sikap PBNU tentang Ahmadiyah', NU website, 9 May 2008, www.nu.or.id/page/id/dinamic_detil/6/12315/Taushiyah/Sikap_PBNU_tentang_Ahmadiyah.html (accessed 20 November 2011).

54 Masdar explained this in the 6 October 2011, interview in Jakarta. The question remains how the 2005 Bogor statement – including the crucial word 'deviant' – ended up on the NU's website in 2008, at such a politically expedient moment.

55 Interview with Imam Aziz, Jakarta, 15 November 2011.

56 'PBNU Tolak Pembubaran Ahmadiyah', KBR68H, 4 March 2011, www.kbr68h.com/berita/nasional/3169-pbnu-tolak-pembubaran-ahmadiyah (accessed 23 November 2011).

confrontation should be avoided at all costs. Instead, dakwah is the highest duty, he said, without a time limit. 'It is possible that other people are flawed, but the flaws have to be overcome gradually and by way of persuasion. If we beleaguer them, the distance will only increase.' 'All that the nahdliyin – the followers of the NU – can do is put across their message, and it is up to others to decide what they want to do with that message. And when people do have recourse to violence, then the state should get involved, for it is the task of the state to protect people's civil rights (but not to interfere in matters of faith).' In this sense, Imam said, actions by the NU's youth movement Gerakan Pemuda Ansor to promote religious tolerance should be seen as merely symbolic.

In mid-July 2011, the website of GP Ansor[57] featured a photograph of members of its paramilitary subdivision called Banser GP Ansor clearing the streets of Temanggung of rubble after the riot there. The organisation, at least under its current leader, Nusron Wahid, has been very outspoken on several issues pertaining to religious pluralism. On 8 February 2011, for instance, right after Cikeusik and Temanggung, Nusron said that places of worship are holy and need to be protected from disturbances from anyone, anywhere.[58] He said the destruction of churches in Temanggung could lead to national disintegration and called the incident 'barbaric' and 'legally and morally unacceptable in Indonesia'. For that reason, in relation to the Cikeusik incident, Nusron said the central leadership of Ansor had instructed its Banten branches to send out Banser units to protect Ahmadis there.[59]

4.2 Modernists: Separating Society and State

The 45th *muktamar* (leadership congress) of Muhammadiyah in 2005 marked the end of Ahmad Syafi'i Ma'arif's leadership and the beginning of a turn to conservatism within what is probably the biggest modernist Muslim organisation in the world. Ma'arif was replaced by Sirajuddin 'Din' Syamsuddin and, with the latter at the helm, many progressive – mostly young – Muhammadiyah intellectuals felt marginalised from

57 http://gp-ansor.org/.

58 'Rusuh Temanggung: Ansor bantu renovasi gereja', *PolitikIndonesia*, http://politikindonesia.com/index.php?k=politik&i=18238 (accessed 9 December 2011).

59 'Penyerangan terhadap Ahmadiyah: Membenturkan Umat Islam kepada Negara', *Al Kisah Magazine*, 16 February 2011, http://majalah-alkisah.com/index.php/component/content/article/799-penyerangan-terhadap-ahmadiyah-membenturkan-umat-islam-kepada-negara (accessed 22 November 2011).

the start.[60] The emergence of the informal Jaringan Intelektual Muda Muhammadiyah (Network of Young Muhammadiyah Intellectuals, JIMM) under the mentorship of the late Moeslim Abdurrahman and the founding of the Maarif Institute should be seen as the progressive intellectuals' answer to the rise of conservative functionaries. However, as Pradana Boy ZTF argues, Muhammadiyah's 'left wing' starting to organise itself led to even stronger resistance from the right and mutual entrenchment, instead of the hoped for accommodation of liberal thought and a move back to the middle.[61]

As Herman L. Beck shows,[62] the history of Ahmadiyah–Muhammadiyah relations is an interesting one. In the early years of Ahmadiyah missionary activity in the Dutch-controlled Java of the 1920s, namely, the organisation's Lahore branch developed cordial relations with representatives of the Indonesian modernists. This was able to happen because the organisations shared a modernist outlook, stressing Islam's compatibility with modernity, rationality and science. However, Muhammadiyah decidedly broke with the Ahmadiyah at its 18th congress, held in Solo in 1929.

At Muhammadiyah's 2010 muktamar, Din Syamsuddin was re-elected, but self-professed anti-liberals such as Adian Husaini[63] did not return to the organisation's Central Leadership Board (PP Muhammadiyah). Din seems to have a well-developed sense of political reality: in a period characterised by emboldened hardline religious activism in wider society, it might not have been a bad idea to coopt, in a way, some of the figures who shared such a train of thought. With regard to Ahmadiyah, Din Syamsuddin also seems to have been choosing his words carefully. Interestingly, Din Syamsuddin had been one of the people to sign the 2005 fatwa placing the sect outside Islam, as he was then the secretary general of the MUI. After the SKB was issued in 2008, Din Syamsuddin said the government had acted because Ahmadiyah had strayed from mainstream Islam and that the next step should be 'efforts to persuade

60 Pradana Boy ZTF, *Para pembela Islam. Pertarungan konservatif dan progresif di tubuh Muhammadiyah* (Depok: Gramata Publishing, 2009), 1.

61 Ibid., 185.

62 Herman L. Beck, 'The rupture between the Muhammadiyah and the Ahmadiyya', in *Bijdragen tot de Taal-, Land- en Volkenkunde* 161–162 (2005), 210–246.

63 Adian Husaini, who has been active in organisations like KISDI and DDII, was a member of Muhammadiyah's Majelis Tabligh in 2005–2010. He is best known for his column 'Catatan Akhir Pekan' (Weekend Notes) in the magazine *Suara Hidayatullah*, in which he promotes what Pradana calls an 'ultra-conservative explanation of Islam': see Pradana, *Para pembela Islam*, 10.

Ahmadiyah followers to return to mainstream Islamic teachings'.[64] After the Cikeusik incident he urged the central government to be firm on Ahmadiyah, saying its hesitant stance 'could lead to unrest and could open up opportunities for a group of people to take matters into their hands in dealing with this issue'. He also said, 'the state has the power to disband Ahmadiyah or to give it a choice to form a new religion outside Islam', but urged Ahmadis to embrace the teachings of mainstream Islam. Din Syamsuddin also stressed that violence was not the right way to bring Ahmadis back into the fold, but that there should be dialogue and dakwah.[65]

Another senior Muhammadiyah leader, Syamsul Anwar – the chairman of the Tarjih and Tajdid Council, tasked with ruling on legal matters in the religious domain – explained that there should be a distinction between the religious side of the Ahmadiyah controversy and its social dimensions.[66] 'There is no statement [within Muhammadiyah] about whether or not it is necessary to ban [Ahmadiyah]. There just isn't', he said. 'The teachings [of Ahmadiyah] are unacceptable. That is clear. And we reject the spreading of those teachings. But we also reject violence against Ahmadiyah.' Syamsul Anwar used the analogy of a house in describing mainstream Muslims' problem with Ahmadiyah. 'For us it's like an attack on our teachings. Our teachings are being distorted. We live in a house, then someone comes in and starts making changes to our house. That's how we feel – because they say they are part of Islam, and share our faith. So that means we share the same house. They live in the same house, but they start making changes without permission.'

When asked about possible solutions, Syamsul Anwar said it was important to keep the dialogue going, as it was preferable that people keep living in the same metaphorical house. And with dialogue, the Ahmadis might be persuaded to return. A human rights discourse can be useful, but only when dealing with violence and destruction, not in relation to matters of faith. 'Human rights are good, but they don't always solve the problem', Syamsul said, adding that the Ahmadiyah controversy had already become a political problem, thus was in need of a political solution.

One of the representatives of the young, progressive wing of Muhammadiyah is Fajar Riza Ul Haq, the executive director of the Maarif

64 Budiwanti, *Pluralism collapses*, 16.

65 'Din Syamsuddin: Kafir meyakini ada nabi baru', Hidayatullah.com, 18 February 2011, www.hidayatullah.com/read/15420/18/02/2011/din-syamsuddin%3A-kafir-meyakini-ada-nabi-baru.html (accessed 18 March 2012).

66 Interview with Syamsul Anwar, Yogyakarta, 9 November 2011.

Institute, which has no formal ties to the organisation. He urged people after the Cikeusik incident not to be provoked into taking violent action over religious affairs, because in doing so they would only serve political interests.[67] For Fajar, the way out of the Ahmadiyah controversy is for the government to take a firm stand against vigilante groups to prevent further violence.[68] 'The government must rule the public domain, because that's the state's authority. When civil society actors come to the public sphere they should obey the law … And the government at the same time should respect the rights of civil society – at the private level. … If the NU and Muhammadiyah decide that Ahmadiyah is not Islamic, for example, the government should respect that. But [in the public sphere] both Muslim organisations should respect the government's rule.'

However, it is important to note that not all aspects of Fajar's vision are shared by Muhammadiyah's old guard, and the views of Agus Sukaca offer some interesting contrast. This general chairman of Muhammadiyah's Tabligh Council is in charge of matters pertaining to the implementation and socialisation of decisions taken by the previously mentioned Tarjih and Tajdid Council which has long been led by Syamsul Anwar. According to Agus Sukaca, 'It is clear that Ahmadiyah is deviant: Muhammadiyah said so decades ago and in recent years MUI has confirmed it'.[69] For Agus Sukaca the problem would be solved if Ahmadis declared a new religion. But, ideally, Ahmadiyah would return to the straight path of Islam. 'If they come back that would be the best solution. If they don't want that, they have to create their own religion. And if they don't want that, the government has to disband them', Agus Sukaca said when asked whether he thought the SKB was an appropriate measure. 'Actually it is not enough. Unless a statement were added that this group is outside Islam', he added. According to Muhammadiyah's top *tabligh* (outreach) official, the Ahmadiyah issue is not a matter of a violation of human rights. 'As long as they claim to be part of Islam, I am of the opinion that the Islamic ummah has the right to have an opinion, or to take steps, to prevent the deviance from being spread. I think this is part of the Islamic effort to keep the faith pure. Because of that, this is not a human rights issue. It is a problem of truth', he said, stressing however that violence was not the solution for this type of problem. In fact, if only the government would act decisively, further clashes would be prevented, he argued.

67 'Maarif Institute: Masyarakat jangan terprovokasi', *PolitikIndonesia*, 17 February 2011, http://politikindonesia.com/index.php?k=politik&i=18654 (accessed 9 December 2011).

68 Interview with Fajar Riza Ul Haq, Jakarta, 23 August 2011.

69 Interview with Agus Sukaca, Yogyakarta, 7 November 2011.

4.3 Tarbiyah Activists

Although the student movement KAMMI shares the goals and strategies of the PKS – leadership based on Islamic values through elaborate Islam-based education of cadres – the two are not formally tied. The movement that claims to have 15,000 members at over 300 campuses from Sabang to Merauke is thus not the PKS's official student organisation. It is however a representative of the unofficial tarbiyah movement that also spawned the PKS. Because of that, it should come as no surprise that Fahri Hamzah, a founder of KAMMI, is now a senior PKS lawmaker. Mahfudz Siddiq, chairman of Commission I at the DPR on behalf of the PKS, also has a KAMMI background.

A month after the Cikeusik incident, the then-chairman of KAMMI told media that the Ahmadiyah issue was clear. 'We want the government to take firm action', said Rijalul Imam, adding that the government should act as the leader of the ummah and that further clashes should be prevented.[70] For KAMMI, Rijalul Imam continued, there were three options: (1) Ahmadiyah declared itself to be a new religion ('the best solution'); (2) the Ahmadiyah organisation was outlawed; and (3) Ahmadis returned to the true teachings of Islam.

In March 2011, KAMMI elected a new general chairman, Muhammad Ilyas, a LIPIA[71]-educated 30-year-old from an NU family in Sidoarjo, East Java. According to Ilyas, it is important to take into account the first principle of the state ideology of Pancasila to find a solution for the Ahmadiyah controversy: belief in the one and only God.[72] For Ilyas, this means that there is only limited room for deviance. In the case of Islam, he said, it is clear that Muhammad is the final Prophet: '[w]hen there is someone who says that there is another prophet after Muhammad, that means that person is not a Muslim. And Ahmadiyah has to be found in that area. They have their own prophet, their own book; Ahmadiyah cannot claim to be part of Islam.' For this reason, Ilyas said he supported the MUI fatwa declaring Ahmadis to be outside Islam. The solution

70 'KAMMI: Persoalan Ahmadiyah sudah jelas', *Republika Online*, 13 March 2011, http://www.republika.co.id/berita/breaking-news/nasional/11/03/13/169036-kammi-persoalan-ahmadiyah-sudah-jelas (accessed 11 October 2011).

71 The *Lembaga Ilmu Pengetahuan Islam dan Arab*, or LIPIA, is a Saudi-affiliated institute of higher education focusing on the Arabic language and Islam, based in South Jakarta. It is generally seen as promoting conservative values, but also counts progressive activists like Ulil Abshar Abdalla, a founder of the (Liberal Islam Network), among its alumni.

72 Interview with Muhammad Ilyas, Jakarta, 25 November 2011.

Ilyas preferred was that Ahmadis returned to the true faith. He stressed however that violence was never an option. But if Ahmadis refused to repent, they would have to declare a new religion. 'But I am an optimist', Ilyas said. 'Rapprochement would be better. The solution is dakwah.'

Asked whether disbandment of the organisation would be of any help, the KAMMI chairman said he did not think that would solve anything. The SKB in itself also was not enough, as there always needed to be dialogue: '[t]here have to be laws, but the rapprochement has to be facilitated through dialogue. Don't keep repeating the same history, until we end up with violence.'

With regard to human rights discourses in the ongoing controversy, Ilyas said it was difficult to draw the line, as mainstream Muslims also had rights. 'People can choose whatever religion they want to follow, that is their right. We cannot force them. But we have to teach people our understanding. If they want to accept it, that's great. If not, go ahead. But then they cannot lay a claim to Islam, because there are rules.'

5 Conclusion

The Ahmadiyah controversy over the past few years has given rise to an interesting interplay between ideological considerations and political pragmatism. This can be seen from the variety of arguments used, solutions proposed and references made to such notions as the rule of law, human rights, religious pluralism and social stability. The framing of rights discourses is a crucial element in this ongoing debate, particularly the relation between various conceptualisations of the rights of believers, the rights of citizens and the rights of human beings. Such rights are seen by some as one and the same, by others as complementary to each other and yet other people consider them to be in outright contradiction.

There is an overwhelming rejection of Ahmadiyah teachings within mainstream Indonesian Islam, among both politicians and civil society activists. Practically nobody agrees with Ahmadis' religious beliefs, and only a very few people hesitate to call them deviant. For the majority it is clear: Ahmadis are not proper Muslims and they should either repent or stop claiming to be part of Islam. However, the almost universal rejection of Ahmadiyah teachings on the level of religious understanding does not mean that most people (or even many people) think that violent confrontation is an option for solving the problem. In fact, most mainstream Muslim civil society leaders and politicians from Islam-based parties do consider Ahmadiyah deviant in terms of religious understandings but still propose a civilised solution in which Ahmadis'

rights as citizens and human beings are respected in the context of the Indonesian nation-state. Of course there are also organisations on the scene that are very outspoken in their rejection of Ahmadiyah and that – unlike the mainstream organisations – do not shy away from (threatening with) violence. These are fringe groups, but they have nevertheless been able to attract a lot of media attention and have proven their capability to escalate tensions up to the level of bloodshed.

The attack in Cikeusik in February 2011, probably in large part due to the graphic footage circulating on the Internet since its immediate aftermath, led to a surge of international criticism and expressions of concern over the protection of religious minorities in Indonesia. European governments[73] and the European Parliament,[74] but also the UN High Commissioner for Human Rights, Amnesty International, Human Rights Watch and others, called for a thorough investigation. But even though Indonesia's National Commission on Human Rights (KOMNAS HAM) said in a preliminary report that the Cikeusik violence was planned and organised,[75] and there was video evidence that three people had been beaten to death, in the end nobody was charged with murder. After a high-security trial at the State Court in Serang, 12 defendants ultimately were found guilty of violating articles of the Criminal Code on violence (160), incitement (170), molestation (351) and willful participation in an assault resulting in serious injuries or death (358). They were sentenced to jail terms of three to six months.[76]

The main issue discussed in this chapter is how people define the limits of the freedom of religion and the role of the state therein. In that

73 EU Delegation to Brunei Darussalam and Indonesia, *EU Statement on the recent attack and killings of Ahmadis in Banten*, 8 February 2011, http://eeas.europa.eu/delegations/indonesia/documents/press_corner/20110208_en.pdf (accessed 15 March 2012).

74 *European Parliament resolution of 7 July 2011 on Indonesia, including attacks on minorities*, www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0341+0+DOC+XML+V0//EN&language=EN (accessed 13 August 2011).

75 'Komnas HAM: Rusuh Cikeusik Terencana-Terorganisir', *PolitikIndonesia*, 23 February 2011, http://politikindonesia.com/index.php?k=hukum&i=19013 (accessed 15 March 2012).

76 '12 terdakwa Cikeusik divonis 3–6 bulan', *Kompas* 29 July 2011, 5. Later, on 15 August 2011, Deden Sujana, the Ahmadis' head of security who was said to have had travelled to Umbulan to help protect Ahmadiyah interests there, was sentenced to six months in jail for obstruction of justice (as he had ignored a police order to leave the premises ahead of the attack) and violent assault (because he had punched one of the men who were later convicted over the incident).

sense, the Ahmadiyah controversy in Indonesia is part of a wider debate on secularism and the state – normal in any democracy – and should not merely be seen in terms of 'religious radicals' targeting minority groups. Sadly, however, the Ahmadiyah controversy in Indonesia is also an excellent example of how democratisation can become a victim of its own success. This is the case for more than one reason. Without access to a wide range of print and online publications susceptible to their ideas, religious hardliners would never have been able to set the terms of the debate on Ahmadiyah to the extent they have done since at least the 2005 MUI fatwa on the matter. The objections against Ahmadiyah beliefs that are mentioned in the MUI fatwas are used time and again by most people who have publicly aired their views on the matter: Ahmadiyah claims that its founder Mirza Ghulam Ahmad is a prophet, so the sect is deviant because there is no prophet after Muhammad. Standing up for a group like Ahmadiyah, which even mainstream Muslim organisations and political parties at the national level see as clearly having crossed the line, is politically not very attractive.

Thus, there is a large degree of consensus on who is to blame in the Ahmadiyah controversy, but when talking about solutions the issue becomes a lot more complicated. Some say Ahmadis are the problem and thus hold the key to the solution. Others argue that the state should interfere – with some saying it should do so for religious reasons and others highlighting civil rights. The form of proposed state intervention varies, too. There are those who maintain that the state should outlaw Ahmadiyah and there are those who instead want the government apparatus to protect all citizens, including Ahmadis. Whereas civil society activists – from the traditionalist, modernist and tarbiyah camps – all stressed the need for continued dialogue, lawmakers – not entirely unexpectedly – advocated a legal solution. Representatives from the liberal and the conservative camps within traditionalist Muslim politics, former Commission VIII chairman Abdul Kadir Karding (PKB) and Religious Affairs Minister Suryadharma Ali (PPP) respectively, have both stated their support for a legal solution to settle the Ahmadiyah dispute once and for all.

For organisations like the NU and Muhammadiyah, it is important to note that although they are not officially political in outlook, their decisions – or lack thereof – do have a political impact.

When we look at Muslim leaders' reactions to the Cikeusik incident, any assumed schism between Indonesia's modernists and traditionalists is not that clear. In fact, the major line of division when we look at the variety of approaches to the Ahmadiyah controversy is not between modernists and traditionalists, but between civil society groups and politicians.

Lawmakers adopted a far more idealistic stance on the issue than civil society leaders. The politicians seemed to be a lot more concerned about perceived threats to the 'purity of Islam' than the functionaries of organisations like the NU and Muhammadiyah, who overall proved to be pragmatic in their approach.

One crucial aspect of Indonesian society to keep in mind when looking at such cases as Cikeusik is that – borrowing a view on corruption put forward by Edward Aspinall and Gerry van Klinken[77] – freedom of religion in Indonesia should be seen as a political process instead of an abstract concept devoid of political causes and implications. This view should be combined with a realistic understanding of the role of the law in Indonesian society, as presented by Robert Cribb in the same edited volume: '[a]ll this illegal activity leads some observers into the impression that law matters little in Indonesia. This is a mistaken impression. The central characteristic of the Indonesian system is that law matters, but only to some people and only in some circumstances. Indonesia is not a lawless society, but rather one in which law is unevenly implemented.'[78]

In this context it is worth noting that throughout the Ahmadiyah controversy in 2011, PKS lawmakers more than other parliamentarians of Islam-based parties tried to push the issue into the judicial sphere by stressing the law enforcement implications of Cikeusik and downplaying its religious dimensions.[79] The latter part of the story was sufficiently covered by the PPP, and it seems that the PKS – despite its fundamental objections to Ahmadiyah beliefs on religious grounds – used the controversy to boost its credentials as a mature, law-abiding party for all citizens. In doing so, it took up a position quite in line with that of the NU and Muhammadiyah, as these socio-religious organisations also stressed the need for the state to focus on law enforcement and not religious matters. The PPP at the DPR called for an outright ban on Ahmadiyah, while from within the PKB there was both a denunciation of the Cikeusik violence in terms similar to those in which the NU condemned the killings and a push for a legal solution. PAN lawmakers stressed that Ahmadis

77 Edward Aspinall and Gerry van Klinken, 'The state and illegality in Indonesia', introduction to Edward Aspinall and Gerry van Klinken (eds.), *The state and illegality in Indonesia*. Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde No. 269 (Leiden: KITLV Press, 2011), 28.

78 Robert Cribb, 'A system of exemptions. Historicizing state illegality in Indonesia', in Aspinall and Van Klinken (eds.), *The state and illegality in Indonesia*, 33.

79 At the same time though, the PKS, through its 2008 bayan on Ahmadiyah, had warned its followers in great detail about the practical implications of Ahmadiyah's perceived deviance.

have the right to live in Indonesia as citizens but also saw a need for dialogue to bring Ahmadis back to the straight path.

Even though there are plenty of laws that could have been invoked to offer Ahmadis protection from persecution (the 1945 Constitution, to name but one example), there was only very little to be gained politically from taking their side in a dispute that has successfully been cast in a religious light by hardline activists. For many, the responsibility for the conflict and violence lies squarely with the Ahmadiyah. As a result, the law did not matter so much – either on that fateful day in early February 2011 or later in court.

PART 2

SHARIA-BASED LEGISLATION AND THE LEGAL POSITION OF WOMEN AND CHILDREN

Kees van Dijk

In the closing years of the New Order the Indonesian government made a number of gestures to show that it had the aspirations of the Islamic community at heart. One was the promulgation of the Religious Judicature Act of December 1989, which gave Islamic courts their own well-defined independent place in Indonesia's legal system. Muslims no longer had to worry, as they had done in the past, that the state might aim at dissolving the religious courts, while their decisions could no longer be challenged in secular courts. Their scope was also extended. Until then, the authority of the religious courts had been limited to matters concerning marriage and divorce. From now on, decision-making on inheritance cases was added to their power.[1] As a result, a decision from 1937 to remove inheritance from the competence of Islamic courts operating within the Dutch legal system (which at that time only existed in Java, Madura, and South Kalimantan and had led to much protest amongst Muslims) was overruled. The colonial authorities, obsessed with the study of *adat* (customs) and certainly not with the study of Islam, had decided on this because they had come to the conclusion that inheritance rules in Java were based on customary law, not on Islamic law. A second gesture was to provide the Islamic courts and their judges with a 'Compilation of Islamic Law' in the fields of marriage, inheritance and endowment. Published in 1991 as a Presidential Instruction, it generally came to be referred to as the *Kompilasi*. As Euis Nurlaelawati has argued in her PhD thesis about the Kompilasi, it brings together the relevant traditional legal texts and Qur'anic quotations, while the influence of customary law and the wish to bring the Islamic legal system in Indonesia in line with modern times can also be discerned.

1 Reflecting the growing popularity of Islamic economics, in 2006 the authority of the religious courts also came to include certain economic transactions concluded in accordance with Islamic law.

After 1998, when the Reform Era started, the role of the central and regional government in promoting Islam changed. What came to the fore can best be described as an effort to promote decency and morality by stressing religious values. As is pointed out in this section of the book, the resulting stated intentions and regulations are at times vehemently contested by part of the Islamic community (and in a number of instances also by non-Muslims) because of their impact on the lives of Indonesians. At the national level the original draft of the Anti-Pornography Act of 2008, inspired by puritan Islamic moral perceptions, is one example. Its wording led to protests by feminists, artists, Hindus and Christians, fearing that their way of life might be affected. Another is the plan revealed in March 2013 to amend the criminal code, among other things, to make living together outside wedlock punishable by law and to increase the sentences for adultery.

The same intention of creating a society governed by high moral standards is reflected in a specific category of regulations issued by regional representative bodies and heads of administration. All issued after 1999, when the central government allowed greater regional autonomy, they are lumped together as Sharia Regional Regulations because of the religious motivation underlying their drafting. Their promulgation is the result of the interplay between the religious sentiments of local politicians and administrators driven by national and local Islamist pressure groups, the desire for political gain by playing the religious card, and the give and take game of coalition politics; and, not forgetting social pressure and a (wish for a) wider and stricter adherence to Islam and its prescripts and rituals in society. Upholding the byelaws is a matter for the secular authorities. Except for Aceh, there is no Sharia police and the powers of the religious courts, again with the exception of Aceh, do not pertain to matters dealt with in the byelaws.

Some of the regional regulations have come under scrutiny because they limit women's options with regard to dress and restrict their freedom of movement. A number of them, their history and reception, are discussed in this section. Examples include regulations in Cianjur in West Java presented by Euis Nurlaelawati, in Bantul in Yogyakarta, and in Bulukumba in South Sulawesi reported on by respectively Muhammad Latif Fauzi and Stijn van Huis. (Aceh, where such regulations have also been promulgated, has a separate section in this book). All, in one way or another, are an attempt to combat anti-social behaviour inspired by the conviction that Islam and religiosity provide the means to accomplish this.

Some of these byelaws prescribe Islamic dress codes for civil servants (and in an exceptional case non-Muslim civil servants have to conform

as well). In Bulukumba women visiting government offices and the religious court also have to wear a headscarf. A headscarf, which leaves the face visible, has become a widely accepted accessory of female dress in Indonesia, and, as Euis Nurlaelawati's research in Cianjur indicates, not many of the female civil servants concerned seem to mind, but it is striking that female police officers in Cianjur, employed by a national and not a regional institution, refuse to wear one. Other regional regulations issued or announced but never implemented concern the freedom of women to be alone out in the streets in the evening, usually promulgated, it appears, as part of the effort to root out prostitution.[2] One of these was issued in Tangerang. Because both the stereotyping of women being out on their own in the evening (and using makeup) and probably the various references to traditional Islamic restrictions on women travelling alone influenced its implementation, the byelaw resulted in the arrest of non-prostitutes – and the fear is that this may happen again. Similarly wrongful arrests were made in Bantul.

The reasoning behind such rules, and behind the wider campaign to have women cover their heads and to discourage them from wearing 'revealing' clothes, indicates that (and Indonesia is no exception on this point) conservative or male chauvinist ideas still prevail about the sexual needs of men and their difficulty in controlling their sex drive. Euis Nurlaelawati's analysis shows that they also influence the decisions of the Islamic courts. The failure of a wife to fulfill the high sexual desire of her husband is an important stated reason in pleas of husbands to get the required permission of a religious court to enter a polygamous marriage.

Both Euis Nurlaelawati and Stijn van Huis also investigate access to justice for women provided by religious courts and whether judges are sensitive to their interests. Both are positive about the granting of a divorce to women petitioning the court to do so (though Euis Nurlaelawati notes that in such instances judges tend to follow classical rules not allowing a post-divorce allowance, unlike the Kompilasi which does). Both also point to problems arising after a divorce has been granted. From Euis Nurlaelawati's discussion about the courts in Tangerang, Serang and Cianjur it becomes clear that when custody over and alimony for children after divorce are concerned, religious courts lack the power and instruments to enforce their decisions outside court and are unable to take action when the former husband disregards the judgment. In his research about divorce cases in Islamic courts in Bulukumba, Stijn van

2 In Padang in 2001, the local authorities contemplated introducing a regulation which would forbid women not accompanied by a close male relative or husband to leave the house after 21:00 hours, but no regulation was issued.

Huis also touches upon problems women may encounter when it comes to their post-divorce rights with respect to alimony, child support and the division of communal marital property among the former spouses. Besides the lack of a proper follow-up after the court has pronounced its judgment as a result of which divorced women may not get what they are entitled to, he also points to the procedure followed in reaching a decision. Judges prefer to settle complicated matters by an informal out-of-court compromise, which is not mentioned in the final sentence. As Stijn van Huis states, '[t]he Islamic court personnel have a preference for informal agreements, and push claims of women outside the realm of the court. Even when the claim is formally made in the court, the judge will attempt to negotiate an agreement with both parties.' Van Huis identifies the enforcement of court decisions as the weakest element in rulings about child support. There are no formal mechanisms at all in place to force the former husband to fulfill his obligations.

From the contributions presented in this section it can be surmised that traditional Islamic legal doctrines and notions are still prevalent. A telling example of this is provided by Euis Nurlaelawati's analysis of the decisions taken by religious courts in Cianjur, Tangerang and Serang (Banten) regarding polygamy. While existing secular legislation and the section of the Kompilasi limiting the practice are disregarded, the judges give priority to classical religious arguments allowing polygamy. It seems that, to use an Indonesian expression, much 'socialisation' of the Kompilasi still has to be done before judges will base their decisions on those aspects that have been included to further the interests of women and children.

4 Sharia-Based Laws

The Legal Position of Women and Children in Banten and West Java[1]

Euis Nurlaelawati

1 Introduction

Since the fall of Suharto in 1998, calls for the introduction of Sharia have become more widespread. This does not mean that prior to 1998 no developments in this area occurred. A well-known example is that of Presidential Instruction No. 1 of 1991, the *Kompilasi Hukum Islam* (Compilation of Islamic Law), henceforth called Kompilasi, issued in 1991, which is considered to be a step towards further codification of Islamic law at the national level. Not only at the national level, but also at the local level there are many ongoing developments in this field. Indeed, as an effect of the policy of decentralisation that was implemented in 1999, the ways in which the introduction of Sharia manifests itself at the local level can vary greatly from region to region.

Decentralisation did not concern religious affairs and, apart from in Aceh, which was granted self-government after the Helsinki Agreement of August 2005, regional administrations are not allowed to issue religious regulations. As a consequence, the introduction of Sharia at the local level is limited, in an Islamic sense, to the public sphere and mostly concerns ritual and morality.[2] This does not mean, however, that the initiatives taken are insignificant. An example is the (demand for) curtailment of the freedom of movement of women under Sharia-based local regulations by, for instance, requiring them to wear a headscarf (*jilbab*) in

1 This is a shortened version of the report submitted to the Islam Research Programme Jakarta. See *Regime Change, Democracy and Islam. The Case of Indonesia*. Final Report Islam Research Programme Jakarta (Leiden, 2013).

2 Arskal Salim, 'Muslim Politics in Indonesia's Democratisations: The Religious Majority and The Rights of Minority in the Post-New Order Era', in R.H. McLeod and A. MacIntyre (eds.), *Indonesia: Democracy and the Promise of Good Governance* (Singapore: Southeast Asian Studies, 2007).

government offices and educational institutions and restricting their freedom to leave the house at night.

In a society biased in favour of men injustice and inequalities are common. Gender prejudice may lead to violence against women and their political and economic marginalisation. Children may be discriminated against by parents or other parties. In courts, these inequalities may manifest themselves in judgments that appear to be unfair, and which emanate from subordination and gender-biased perspectives and decision-making methods.

Generally speaking, continuous efforts have been made in Indonesia with regard to legal improvement and legislation to defend the rights and equal status of women and children. Several articles in the Marriage Law (Law No. 1 of 1974) and in the Kompilasi, for example, try to provide protection to women and children. Furthermore, laws ratifying a number of international covenants have strengthened the empowerment and protection of women and children. In addition, judicial system reforms have been introduced by religious courts as a result of close cooperation with international donors. While, to some extent, the position of women has somewhat improved and women now receive more justice in some cases, the expectations and intentions have not entirely been fulfilled, and this has brought about continuous demands for revision and refinement of these legal products in order that they may mould with the many social changes that have occurred and that affect the interests of children and the relations between women and men.

This contribution is based on research that examined court decisions and narratives of hearings, and investigates how laws on familial issues, particularly those that relate to women such as the Law of Marriage and the Kompilasi, are applied.[3] The cases that were observed include divorce, custody, spousal alimony and alimony for children, and polygamy in three courts: in Cianjur in West Java, and Serang and Tangerang in Banten. The research also looked at the national laws from a practical level by observing women's responses, and their application by judges of religious courts. A number of court hearings were attended, judges – in particular female – and litigants were interviewed and court rulings were analysed. The research was undertaken over six months in three periods in 2010; the first lasted from May to June, the second from August to October, and the last took place in December. In 2011, in order to better

3 I collected 158 decisions issued by the three courts being surveyed. Excluding decisions on inheritance cases, I analysed 42 decisions issued by the court of Tangerang, 49 by that of Serang, and 24 by the court of Cianjur.

understand the legal knowledge and awareness of women in general, I interviewed 12 women and distributed questionnaires to 100 women in three different areas in Tangerang. With regard to women's issues in the public sphere, one regulation was studied in closer detail: the Cianjur Sharia-based local regulation on the requirement for female Muslim civil servants to wear a jilbab. To gain a picture of the response to it I interviewed women, distributed questionnaires and visited the offices of the regional administration, the local police and the local public hospital.

Presenting a number of court cases, this contribution argues that the legal position of women has strengthened in cases only where technical judicial reforms have been introduced. It also suggests that women still face inequalities in court decisions on familial cases and that a number of local regulations have restricted women's freedom of choice in the public sphere.

2 Women in Indonesia's National Statutory and Local Regulations

Women have long been an important topic in legal discourse in Muslim countries. Under Sharia, women are treated differently from men. In light of the fact that many classical Islamic family laws placed women in a subordinate position, the Indonesian government initiated legal reforms and introduced new rules at the national level, included in the 1974 Law of Marriage and the Kompilasi, to improve women's standing in family law. This section discusses women and the legal rules that apply to them under Islamic family law and local Sharia regulations.

2.1 Personal or Family Laws

Following the trend to codify Islamic family law in a number of Muslim countries, Indonesia issued the so-called Kompilasi Hukum Islam in 1991. Keeping pace with the growing demand by society for gender equality, Indonesia has used the Kompilasi to take notice of women's interests, paying special attention to polygamy, divorce, marital property and post-divorce rights for women. Here, I will discuss briefly the rules on these issues laid down in the Kompilasi. I refer to the Kompilasi, but am aware of its low legal standing as it was issued only as a presidential instruction. The Kompilasi is a regulation that applies specifically to Indonesian Muslims and legal issues relating to the Kompilasi are dealt with by judges in the religious courts.

When looking at legislation on polygamy introduced in Muslim countries, two trends emerge. The first is for polygamy to be entirely abolished and considered a crime; and the second is for it to be permitted but, in order to avoid the abuse of its practice, to be governed by strict regulations.[4] In the latter case polygamy requires the court's permission and is dependent on husbands meeting certain requirements and conditions. By including these restrictive conditions, Qur'anic standards of 'equal justice' are no longer a matter for the moral conscience of the individual, but rather a legal matter to be decided by the court.

Indonesia has taken the second approach, allowing polygamy. Articles 55, 56 and 57 of the Kompilasi thoroughly administer polygamy and list the required conditions and qualifications. These articles insist that a polygamous marriage can be solemnised only if all these conditions are fulfilled, and only if one of the reasons mentioned in the legislation allowing it exists. Failure to fulfill the requirements results in its prohibition. Above all, the approval of the court is absolutely essential and this means that such a marriage can be legally recognised only if it is approved by the court. However, Articles 58(3) and 59 abolish the necessity for the wife's consent. Article 58(3) regulates the condition when wives are absent and their whereabouts are unknown, preventing them from being involved in the case. It states that the consent of a wife or wives does not have to be taken into account if she or they could not be consulted, or if her or their whereabouts have not been known for two years, or if other conditions prevent her or them from being involved in the case that is being reviewed by the judge.[5] Further, Article 59 lays down rules for situations where husbands have presented grounds for divorce, but wives have refused to give their consent. In such instances, the courts have superior authority. It states that:

> In cases where wives are reluctant to give her or their consent and the husbands' proposal for polygamy has met one of the specified reasons as ruled in Art. 55 (2), the religious court has the right to make a decision on the proposal, after they have heard the wives' argument and clarifications in court.[6]

4 For a detailed discussion of the legal reform on polygamy in a number of Muslim countries see Jan Michiel Otto (ed.), *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden: Leiden University Press, 2010). See also John L. Esposito, *Women in Muslim Family Law* (New York: Syracuse University Press, 1982), 92.

5 Article 58 of the Kompilasi.

6 Article 59 of the Kompilasi.

Wife and husband can appeal to a higher court.

Polygamy is also regulated by two governmental regulations, i.e. Peraturan Pemerintah (PP) No. 10/1983 and PP No. 45/1990 that apply to civil servants. PP No. 10/1983 regulates the procedure for a male civil servant entering into polygamy. It states that a male civil servant can become polygamous only if permission is obtained from his superior and prohibits female civil servants from being second wives to male civil servants. PP No. 45/1990 lays down stricter rules prohibiting female civil servants from marrying not only married civil servants, but also married non-civil servants.

Concerning divorce, Indonesia, like other Muslim countries, has limited the practice of divorce by requiring both husband and wife to bring a petition for divorce to court. The Kompilasi includes detailed rules on divorce and specifies grounds for it to be permitted. A reform which strengthens the rights of wives in divorce proceedings concerns the wife's petition, which is known in Indonesian as *gugat cerai*. The Kompilasi mentions two varieties of such divorce proceedings, as regulated by Article 148. The article does leave some room for interpretation, but states that in cases where the woman wishes to petition for a *khuluk* divorce – where the woman pays financial compensation to the man – the judges of a religious court must explain to husband and wife the consequences of khuluk. After both parties agree on the amount of financial compensation (*iwadl*), the religious court issues a decision granting the husband permission to pronounce the divorce formula. There is no appeal from this decision. However, when no agreement is reached on the amount of compensation, the religious court judges are required to hear and treat the case as a 'common case'. In other words, in that case the divorce cannot proceed as khuluk.

From this article, I understand that not all divorces under wives' petitions or gugat cerai can be treated as khuluk. The Kompilasi has therefore gone beyond *fiqh* or Islamic classical legal doctrines and introduced an important reform, giving wives the right to petition for divorce without always having to pay financial compensation. This means, therefore, that a wife also has a right to spousal alimony if her petition for divorce was made using non-khuluk proceedings.

The issue of custody after divorce is regulated by Article 105. It grants custody of children younger than 12 years to their mothers, and gives freedom to those aged 12 years or older to choose either of the parents to be their guardian.

2.2 *Perda Sharia* and Women: Morality and Ethics

Sharia is not only accommodated by laws at the national level, but it is also taken as a basis for regulations issued at a local level. The second amendment of Indonesia's 1945 Constitution by the People's Consultative Assembly established during the reforms of 1998 prompted the rise of the enactment of Sharia-based local regulations. Article 18 of the Constitution opened up the possibility for a local government to issue such Islamic regulations. The article provides a legal basis for the districts that are endowed with regional autonomy to manage their own regional affairs. Regional autonomy itself is mandated by the Regional Autonomy Laws No. 22/1999 and 25/1999 which were implemented in 2001.[7]

The primary objective of these laws is to offer more authority and power to regions to manage their own affairs. The enactment of local regulations (*Peraturan Daerah*/Perda) has become one of the local government's main tools for developing their respective regions.[8] It is in this context that Sharia-based byelaws have begun to be enacted. Apart from Aceh, a number of regions and cities have enacted such regulations, including Bulukumba (discussed in this book by Stijn Cornelis van Huis), Bantul (discussed by Muhammad Latif Fauzi), and Cianjur. Although the majority of Sharia-based regulations enacted apply to both men and women, it is the position of women that is most affected.

There are at least two areas in which these regulations may affect women. These two areas, if we follow Salim's categorisation, may fall into either the category of public order and anti-vice regulations, including the banning of prostitution and alcohol, or that of religious symbolism, which includes the obligation to wear Muslim clothing,[9] and relate primarily to morality and ethics. Such regulations are partly a response to the claim by Islamists that Indonesia faces serious problems as a result of moral decline in society. Such Islamists argue that women are the source of a number of such problems.[10] And they believe that such problems

7 Nur Rifah and Honest Dody Molasy, 'Questioning Women Security in Perda Syariah (Critics to Indonesian District Policies)', a paper presented at the Human Security Conference organized by SEAS in 2010.

8 M.B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: ISEAS, 2008), 244.

9 Salim, 'Muslim Politics in Indonesia's Democratisations', 115–137.

10 Karni, Budiarti, and Barus, 'Batas Niat Baik dan Komoditas Politik', *Nasional*, www.gatra.com, 2006.

would be solved if there were legislation in place which obliged women to amend their attitudes and behaviour.

In Cianjur an association of Muslims called SIMLUI (*Silaturahmi dan Musyawarah Umat Islam*/Good Relationship and Consultation in the Islamic Community) urged the implementation of Sharia, and convinced the people of Cianjur that Sharia is the solution to social ills and could improve the morality of Cianjur society. Members of SIMLUI therefore promoted a number of regulations inspired by Islamic doctrines which called for the adoption of Islamic dress codes, requiring that Muslim women wear a jilbab. To give substance to local byelaw No. 3/2006 on the Movement to Create a Pious Society/Gate to Love and Peace (*Gerakan Pembanguan Masyarakat Berakhlaqul Karimah/Gerbang Marhamah*) the bupati (regent) of Cianjur required Muslim civil servants to conform to Muslim dress codes in government office. However, while the Bulukumba regulation on the jilbab applies to all women, the Cianjur regulation is only in force for Muslim civil servants. Male civil servants are also expected to follow Muslim dress rules and have to wear a so-called *baju koko* when in office.

As is the case also elsewhere in Indonesia, the Cianjur regulation was, according to its proponents, issued to provide security for women and protect their dignity. However, opponents of these regulations argue that the way women are protected has in fact marginalised them and confined them to domestic life; according to them, women have become the victims of these Sharia-based regulations.

3 Women at Religious Courts: Judges' Legal Discretion

This section observes the outcomes for women of legal cases in the courts and the factors contributing to these outcomes. The key points that are investigated relate to how religious court judges regard and position women who are involved in legal disputes and the degree to which women's interests are served in court.

3.1 Remaining Subordinate: In Which Case(s) and Why?

Despite many reforms, women continue to have a weak position in court in cases of polygamy, custody and post-divorce alimony for their children. There are a number of factors that contribute to this.

3.2 Polygamy: Loose Application of Law and Traditional Interpretation

In the case of polygamy, women are often not able to negotiate or indeed influence the judges' judicial discretion. Although polygamy is regulated in the Kompilasi and in PP No. 10/1983, which was amended in 1990 by the PP No. 45/1990 to make the practice of polygamy more difficult, judges in the three courts observed remain gender-biased and unreceptive to women in this matter.

What does current research say about this matter? Pusat Studi Hukum, Konstitusi dan Hak Asasi Manusia, PUSKUMHAM (the Centre for the Study of Law, Constitution, and Human Rights, State Islamic University, Jakarta), concluded that a number of judges have been sensitive to gender issues, as can be demonstrated by their attitude when resolving cases of divorce, joint property and polygamy. It also reported that some judges in the court of Aceh have been very much concerned with protecting women's rights and are receptive to gender issues.[11] Hearings of cases of polygamy during which judges required husbands to reconsider their decision, and reminded husbands of the sanctions in the event of unfair or unequal treatment of co-wives, for example, illustrate that gender sensitivity in courts in Aceh has increased. Another case from Aceh on divorce, in which judges awarded a greater portion of joint property to the wife – the reason for the divorce being the husband's polygamy – also demonstrates that judges can be quite sensitive to gender issues. It must be mentioned, however, that judges only started to become more aware of gender issues following the introduction of a number of training programmes by several centres of women's studies targeted at strengthening gender sensitivity in court. Through these training sessions, principles of equality, justice and fairness were introduced.[12]

The results of my research, however, differ from the findings of PUSKUMHAM. I found that most of the judges in the three courts featured in this research seemed to remain biased or unreceptive in respect of this issue, despite having received training on gender sensitivity. They often refer to the Qur'anic verse that allows polygamy. Although the Qur'an stresses justice and a number of verses – Al Nisa (4) verse 3 and Al Nisa (4) verse 129 – tend to discourage polygamy, many judges are of the view that polygamy is acceptable and does not deviate from the Qur'an.

11 See Arskal Salim (ed.), *Demi Keadilan dan Kesetaraan: Dokumentasi Program Sensitivitas Gender Hakim Agama* (Jakarta: PUSKUMHAM, 2009).

12 For the curricula and materials of the training see Salim, *Demi Keadilan dan Kesetaraan*, 22–26.

One of judges said that polygamy is allowed according to the firm law, the Qur'an, and no law can be made to violate it.[13] It seems, then, that gender sensitivity training does not always have the desired and full effect, and certainly as a single factor is incapable of changing the minds of judges on these sensitive issues. Indeed, a number of other factors are also relevant: the judge's personality and educational and family background also contribute to whether or not the judge is receptive to training on gender sensitivity.[14] The way training is conducted may also play a role. PUSKUMHAM found that the judges of these three courts were trained by a centre for women's studies (Pusat Studi Wanita, PSW) with an approach and a method quite different from the method employed by centres in Aceh.[15]

I collected nine decisions on requests for polygamy in the period 2007–2009 made by the religious court of Cianjur. The court approved of all nine. The reasons for approval vary according to the reasons put forward by the petitioners (husbands), ranging from the inability of their wives to provide descendants or them being serious ill, to a sexually dissatisfied husband. It is worth mentioning that, although this is not always explicitly stated, high sexual desire is the dominant motive for these petitions. Indeed, in four of the nine cases polygamy was requested on the grounds that the wives could not satisfy their husbands' sexual desires. That the requests were granted indicates that judges in this court remain open to polygamy and are not particularly strict about the rules, often accepting invalid reasons presented by husbands as sufficient grounds for polygamy.[16]

The court of Cianjur is no exception. Judges in the other two courts in my research made very similar decisions. From the 45 judgments issued by the court of Serang on various cases, six are on polygamy; out of the 72 cases collected from the court of Tangerang, five.[17] Although the reasons

13 Interview with the head of the religious court of Tangerang, May 2011.

14 For a discussion on the influence of these on the gender sensitivity of people, including judges, see Geeta Sarma and Deepa Sonpal, 'Gender Awareness and Sensitivity Applications', Unnati Organisation for Development Education, Gujarat, India, 2008. See also Karen Czapanskiy, 'Gender Bias in the Courts: Social Change Strategies', *Journal of Legal Ethics* (4)1, 1990.

15 See Salim, *Demi Keadilan dan Kesetaraan*, 32–35.

16 I have copies of all nine judgments. Some of them are identified as Decisions No. 255/Pdt.G/2008/PA.Cjr, No. 290/Pdt.G/2008/PA.Cjr, No. 393/Pdt.G/2007/PA.Cjr, and No. 358/Pdt.G/2007/PA.Cjr.

17 HUKUMONLINE, Indonesia's leading source of legal news, found that of 1,016 applications for permission to marry polygamously lodged in religious courts in 2004 800 were approved, as were 776 out of 1,148 in 2006. Quoting these

given in the decisions issued by the court of Tangerang include religious observance (*ibadah*)[18] in two cases, wives' failure to satisfy the sexual desire of their husbands in two cases, and the husband's high mobility in one case, all five of the petitions, plus two petitions in the court of Serang, were basically approved in order to fulfill the high sexual desire of the petitioners (husbands).[19]

To give an example, a housing contractor (with one wife) who had been living in Serang for a year for his work while his wife and four children had stayed behind in Bandung, had asked the court of Serang to allow a polygamous marriage after he had met a woman in Serang and had fallen in love with her. To avoid extra-marital sexual intercourse (*zina*) he wanted to marry her. The reason he advanced was that his wife could not fulfill his sexual needs as she was living far away. The judges agreed on the condition that his wife gave her consent and that the husband had sufficient financial resources. The judgment also stated that it was feared that the husband would be tempted into extra-marital sexual intercourse unless his request were granted. The reason put forward by the husband is not specified in the law. He simply stated that his wife had

figures Butt remarks that, given Indonesia's large population, the numbers seem quite small. Nonetheless, he suggests that the proportion of approvals may support his and other researchers' claims of a relatively permissive approach by judges to polygamy, with which I agree. See Simon Butt, 'Islam, the State and the Constitutional Court in Indonesia', *Pacific Rim Law and Policy Journal*, 19 (2), 2010, 291. For details on the number of polygamy applications and approvals in those years see *Menguak Sisi Gelap Poligami*, HUKUMONLINE, 23 December 2006, www.hukumonline.com/berita/baca/hol15941/menguak-sisi-gelap-poligami (accessed June 2011); *SyaratPoligami akan Diperkuat*, HUKUMONLINE, 19 February 2009, www.hukumonline.com/berita/baca/hol21230/syarat-poligami-akan-diperketat (accessed June 2011).

18 Muhammad Insa, an Indonesian Muslim who considers polygamy a religious observance (*ibadah*) to be upheld by Muslims, challenged the stipulations on polygamy in the Law of Marriage and the Kompilasi. He protested that these were in violation of the right of religious freedom and petitioned for judicial review by the Constitutional Court rather than applying for polygamy at the religious court. He argued that polygamy is a matter of ibadah and the state has to allow Muslims to practise it. Arguing that the rules on polygamy do not violate people's rights, the Constitutional Court dismissed Insa's application. For a further discussion on this issue see Faye Yik-Wei Chan, 'Religious Freedom vs. Women's Rights in Indonesia: The Case of Muhammad Insa', *Archipel* 83, Paris, 2012, 113–145. See also Butt, 'Islam, the State, and the Constitutional Court in Indonesia', 2010.

19 Some of these judgments are identified as Decisions No. 280/Pdt.G/2009/PA. Srg, No. 526/Pdt.G/2009/PA.Srg, No. 322/Pdt.G/2009/PA.Srg, No. 211/Pdt.G/2008/PA.Tng, and No. 164/Pdt.G/2008/PA.Tng.

not moved with him to his new place of residence and that he intended to avoid extra-marital sexual intercourse with the other woman. The wife gave her consent, but, according to the law, she should only have done so after the husband had presented a legitimate reason, one specified in the law.

In another case, a woman with four children could not but consent when, after 20 years of marriage, her husband asked the court of Cianjur to allow him to marry a second wife, a widow, on the ground that his wife was no longer able to satisfy his sexual needs. He promised to treat his co-wives justly and declared that he was capable of supporting them financially. Unlike in other cases, the wife appeared in court to announce that she had no objections. The judges gave their permission without making any further statements or requiring evidence to support the husband's claim.

The two cases are striking in view of the comprehensive rules regulating polygamy in Indonesia. The rules should lead to stricter control of polygamy and ensure that arbitrary polygamous marriage cannot legitimately be concluded unless the arguments put forward in such cases are those specified in the laws. These examples suggest that, in fact, the contrary is true: judges do not always seem to adhere to the rules and, in contrast to divorce, polygamy seems difficult to control and to be 'vernacularised' (interpreted according to modern legal discourse). A number of judges believe that polygamy has a clear Islamic legal rationale. Some of them frankly admitted that if they were to reject polygamy, they would be deviating from Sharia.[20] These factors combined lead judges to a loose application of the state law.

Such a tendency can also be seen from the judges' argument that they are not required to see whether the consent of the wife is sincere or not. Equally, they are not required to check whether the wife is genuinely unable to satisfy the husband's sexual desire or unable to have children, when husbands present such reasons to support their request for polygamy.[21] Above all, in their judgments, most of the judges looked at and stressed the qualifications to be met by husbands, rather than the reasons why husbands request a polygamous marriage. Consequently, they can accept any reason the husbands present, even

20 Based on interviews with six judges of the religious courts of Serang and Tangerang, 2011.

21 Interview with judges of Tangerang religious court, July 2011 and based on content analysis of decisions on several petitions for polygamy. See also M.B. Hooker, *Indonesian Syariah: Defining National School of Islamic Law* (Singapore: ISEAS, 2008), 12–13.

those not mentioned in the relevant legislation. Rather than stressing justice in their legal reasoning, the emphasis appears to be on the concept of *maslahat* (public interest). Also, rather than considering the consequences of their decision for the first marriages (judgments in my collection tend to indicate that polygamy is detrimental to first wives and that many first wives petition for a divorce on the grounds of continuous disputes resulting from the husband's polygamy), judges focus on the potential zina of husbands with their new female partner.

Interestingly, many judges interviewed admitted to having received training on gender sensitivity; indeed, many felt that they were receptive to gender issues. In practice, however, they appeared to have misunderstood the issue. This lack of gender sensitivity clearly came to the fore during an academic forum at which I presented a paper and which a number of judges from the three courts attended. The forum discussed access to Islamic justice, and one of the sessions was devoted to women's issues. When the issue of polygamy came up and one of the speakers, Maria Ulfah, expressed her disapproval of this practice, one of the judges present stood up and declared his unwavering support for polygamy, arguing that permission for polygamy is clearly stated in the Qur'an. He was supported in his view by a female judge who offered a more reasonable and practical argument. She admitted that she and other colleagues were often faced with requests to allow polygamy and that she often saw first wives being treated badly by their husbands if they refused to consent. She assumed that if a petition was not approved, a wife might be worse off. Giving permission for polygamy was therefore a way to protect these women.

3.3 Custody and the Notion of 'Best Interests of the Child(ren)'

With regard to custody and post-divorce alimony for children, women are also often in a weak position. In the classical legal doctrines, the rules relating to custody vary according to the different schools of Islamic law. However, they all agree that the age of the children determines who has the right to custody when parents separate.[22]

Custody refers to the physical care and control of a minor. In other words, custody is the right to the physical presence of the child. 'Custody' can exist only in relation to the minor's person, not over his or her

22 See Wahbah al-Zuhayli, *Al-Fiqh al-Islamiyy wa Adillatuhu* (Damaskus: Dar al-Fikr, 1984), Vol. 10, 4th edition, 7306. See also Al-Jaziri, *Al-Fiqh 'ala al-Madhahib al-Arba'a*, 596–598; Dimsaqy, *Kifayat al-Akhyar*, Vol. 11, 152, and Bajuri, *Hashiya Kifayat al-Akhyar*, Vol. 11, 198 and 203.

property. The person who is granted this right is called a custodian. Custody differs from guardianship and a custodian has narrower duties than a guardian, who has rights and duties with respect to the care and control of a minor's person or property. With regard to guardianship, which includes financial maintenance for children, fathers and their relatives are given more rights. Decision-making about the persons and property of children under the legal age (21, when a child is not married) is consistently vested in the father and, in cases where he is absent, in one of his relatives.[23] While physical care of the children can be the responsibility of mothers or fathers, mothers have superior rights in terms of the custody of children under the age of puberty (*ghayr mumayyiz*).[24]

In Indonesia, the rules on custody modify those of the classical legal doctrines (fiqh) and do not follow Shafi'ite legal opinion to which Indonesians Muslim adhere for the majority of legal issues. Shafi'ites define the age of puberty as seven.[25] In the Kompilasi, it is ruled that custody of children aged 11 and under is to be awarded to their mothers and children aged 12 and above can choose which of the parents they want to stay with.[26]

In Indonesian religious courts, a custody case can be resolved by filing a separate case or as part of a divorce case. Cases of custody are mostly brought by women. In custodial cases a woman can face two challenges: one is to gain the right to custody, the other actually to be able to exercise that right after it has been awarded to her by the court. In the first instance, problems can arise when the husband argues that the divorce petition is motivated by his wife's behaviour. For example, husbands seeking custody may argue that the wife is not fit to bring up the children because she leaves home for work or because of her religious impiety. After a woman has been given custody, it can happen that the former husband refuses to hand over the children, or that the alimony for children is paid irregularly or not at all.

The decisions of Indonesian religious courts relating to custody cases generally emphasise the best interests of the child(ren), as is stressed in the Kompilasi. However, these rulings rest on the perception of individual judges as to what constitutes the 'best interests', which is, as also concluded

23 Asha Bajpai, 'Custody and Guardianship of Children in India', *Family Law Quarterly* 39 (2), 2005, 441–457.

24 Wahbah al-Zuhayli, *Al-Fiqh al-Islamiyy wa Adillatuhu*, 7308. See also Al-Jaziri, *Al-Fiqh 'ala al-Madhahib al-Arba'a*, 597–598.

25 Wahbah al-Zuhayli, *Al-Fiqh al-Islamiyy wa Adillatuhu*, 7322.

26 Art. 105 of the Kompilasi. See also Euis Nurlaelawati, *Modernization, Tradition and Identity*, 144–145.

by Bajpai in his research,[27] a highly abstract notion. A number of decisions in the cases I studied indeed stated that they were made in 'the best interests of children'. However, since every case has a different character and nature, it is difficult to draw general conclusions about this underlying reason. Judges do mention a number of factors or reasons for awarding or rejecting custody. However, what is clear is that decisions often favour the party that was able to negotiate or influence and change a judge's decision most effectively and that children lack legal representation in court.

Of the 13 custody cases heard in the courts of Tangerang, Serang and Cianjur whose decisions were either integrated in decisions on divorce cases (petitioned by wives) or separate custody cases, five decisions rejected the former wives' rights to custody. Two of the five women who were refused custody by the judges in the courts of first instance did not negotiate their cases or file an appeal with a higher court. In her divorce petition, one of the women asked for custody of her four-year-old son, but this was refused on account of her working outside the home. Although working mothers have negotiated and been awarded custody in the past, this instance indicates that in custody cases it is not uncommon for a judge to question the women concerned to be the right person to raise the child(ren).[28] In this case, the principle of the 'best interests of the children' is not very clear or well-defined. The reason presented in the second case was the 'bad character' of the woman, apparently demonstrated by her husband's accusation that she had cheated on him. The judges agreed with the husband's allegation that she was not a good and pious mother and emphasised that they had taken into account the child's best interests: a custodian should be able to raise a child physically, mentally, spiritually and socially in a 'normal' manner. They assumed that if they awarded custody to the mother, the boy might grow up well physically but not spiritually.[29]

27 Bajpai, 'Custody and Guardianship of Children in India', 447.

28 Seto Mulyadi, a senior consultant of the National Commission on Children Protection (Komisi Nasional Perlindungan Anak/Komnas Anak) and a former chairman of the Commission, mentioned that the committee received a number of complaints made by women who lost custodial rights over their children under the age of 12 and reported the cases they received to the Judicial Commission. He mentioned that in 2012 it received 12 custody cases in which women (mothers) were deprived of their rights by judges on various grounds. See Cornelus Eko Susanto, 'Kak Seto Adukan Masalah Hak Asuh Anak ke KY', *MICOM*, 31 October 2012, http://article.wn.com/view/2012/10/31/Kak_Seto_Adukan_Masalah_Hak_Asuh_Anak_ke_KY/ (accessed 12 December 2012).

29 Personal interview with YL, Tangerang, 2010. See judgement No. 484. Pdt.G/2010/Tgr.

3.4 Achieving Better Justice: In What Cases and How? Legal Assistance and Better Service

Women's centres have helped Indonesian women to become more aware of their legal position. Funded by and cooperating with national and foreign donors, these centres provide advocacy to society. In addition, the Ministry of Religious Affairs has, since 2006, run a special Course on Islamic Legal Knowledge for Brides and Grooms (Kursus Calon Pengantin/Suscatin) held at the Offices of Religious Affairs (Kantor Urusan Agama). Significant and influential are the legal aid posts (POSBAKUM) operating since 2011 inside court buildings and run by the government, and PEKKA (Perempuan Kepala Keluarga, Female Heads of Households), an NGO supporting the empowerment of female heads of households in respect of gaining their legal rights.[30] For example, since its establishment in 2012, in its first four months of operation Cianjur's legal aid post provided legal assistance to more than 220 people,[31] the majority of whom were women seeking legal aid.

Apart from the increase in legal assistance, better services in court also lead to greater access to justice for women. Supported by the wider international community, including the Australian Family Court, Indonesia's religious courts are trying to develop their services. The courts received an increased budget from the national treasury in 2008 and 2009 and, subsequently, have run 'Prodeo' (courts for the poor/fee waivers) and 'courts on circuit' (*sidang keliling*) programmes, which are largely aimed at helping poor women. 'Prodeo' services have been widely and well utilised by women. In the 'courts on circuit' programme, judges travel to remote areas to collect and hear cases. This programme was initiated due to the fact that Indonesia has many remote areas where transport is a problem, preventing people living there from coming to court. In its annual report for 2012, the court of Cianjur reported that between January and April it had heard 183 fee waiver (prodeo) cases and 133 cases on circuit,[32] including cases for divorce and marriage legalisations. In addition, judges in the three courts are often lenient about the hearing schedule, and are often willing to re-open day hearings for late-comers.

30 Cate Sumner and Tim Lindsey, *Courting Reform: Justice for the Poor* (Lowy Institute, 2010), 42–44.

31 'Laporan Pelaksanaan Sidang Keliling, Prodeo dan Posbakum Tahun 2012 Bulan Januari s/d April 2012', Pengadilan Agama Cianjur. 8 May 2012.

32 'Laporan Pelaksanaan Sidang Keliling, Prodeo dan Posbakum Tahun 2012 Bulan Januari s/d April 2012', Pengadilan Agama Cianjur, 8 May 2012.

3.5 Gender Sensitivity Among Judges: Spousal Alimony after *Talak*

Gender sensitivity among judges constitutes another factor in terms of gaining better access to justice for women. Although I mentioned above that judges have not been receptive towards women in the case of polygamy, partly thanks to training sessions held by a number of centres in cooperation with international donors, such as the Embassy of the Kingdom of the Netherlands and the Asia Foundation, a number of judges from the courts of Serang, Tangerang and Cianjur, have become more sensitive to gender issues, particularly in respect of divorce. Almost all divorce cases initiated by wives heard in these three courts have resulted in approval.

The gender sensitivity of judges can also be seen in their attempts to implement the ruling that wives should receive spousal alimony after divorce. In all 18 cases heard in the courts of Tangerang and Serang, the judges stated that husbands were required to pay to the clerk the spousal alimony for three months and the *mut'ah* (gift of consolation) before they were permitted to pronounce the divorce formula in court.[33] However, judges can also make a different decision and take the financial circumstances of a husband into account, allowing him to pronounce the divorce formula without making the payment into court. This usually comes with a warning from the judge that husbands are expected to fulfill their obligations later. The judges would argue that such a decision prevents wives from waiting for a long period for clear legal status, i.e., being divorced.

The financial circumstances of the husband may also make judges decide on a lesser amount of maintenance than demanded by wives.[34] In one case in Tangerang, for instance, spousal alimony was fixed at 700,000 rupiah per month for a period of three months and the *mut'ah* at 500,000 rupiah. There was no agreement on alimony for children as they had none. After the wife and husband had agreed on the sum, during the session in which the husband would pronounce the divorce formula, the court asked the husband if he had the money ready; the husband said he had. Without being asked, he gave the money to the clerk who, after checking that the amount was correct, passed it on to the wife. She received the money in a casual fashion and did not do what the chief judge asked her to do; that is, to check the amount of

33 Based on notes of hearings held in courts of Serang and Tangerang and interviews with judges in Serang and Tangerang, September, October and November 2010.

34 Based on notes of hearings held in courts of Serang and Tangerang and analysis of a number of judgments issued by these two courts.

money received. Consequently, having verified that the wife was not menstruating as demanded by Islamic law, the chief judge permitted the husband to pronounce the divorce formula. The hearing was then closed and the litigants shook the judges' hands and went.[35] After two other cases had been heard the ex-wife approached the chief judge. She tried to verify what had been decided on the alimony and admitted that only now did she realise that the amount she had accepted was less than she had originally asked for and that she would only agree to a divorce if her financial request was met. The chief judge responded in a relaxed fashion and said that he indeed remembered the amount requested by her, but had considered it too much and not realistic. The judge had taken into account the financial circumstances of the husband and had decided to lower the amount of alimony that the wife would receive. To stop her complaining, the chief judge said that judges could fulfill either the whole petition or part of it and reminded her of her right to appeal before the final hearing on the declaration of the divorce formula.

Another case involved a woman who was being divorced by her husband and aware of her post-divorce rights. One of her demands was dismissed, as it was, according to the judges, excessive, illogical and unlawful, i.e. *uang sakit hati* (financial compensation for a broken heart). However, the judges met her other demands on spousal alimony and a gift of consolation and asked the husband to make the payments in the courtroom, which he did. Given these cases, there is some evidence that, although many husbands do not fulfill their financial obligations due to insufficient financial means, changes in judges' attitudes in this area have helped to improve justice for women to some degree.

4 Sharia-Based Local Regulations: Jilbab Requirement in Cianjur

The requirement in Cianjur for civil servants to conform to Islamic dress codes when at work constituted a further implementation of the local byelaw of 2006 on the intention to establish a pious society. It is an example of the effort to control the conduct of women in public areas, and has – like other such efforts elsewhere in Indonesia – led to widespread debate and criticism. Both those who support the obligation to wear a jilbab and those who oppose it base their arguments on the concept of '*maslahat*' (general well-being) of women, understood as women's security and the protection of dignity.

35 Based on notes of a hearing held in a court of Tangerang, 5 October 2010.

The measures taken in Cianjur, also known as *Kota Santri* (City of Devout Muslims), were presented as a response by the local administration to tackle moral hazards confronting young men and women. To promote moral behaviour, the Cianjur administration, on the initiative of the bupati, Warsidi, formulated a number of intentions, starting with the *Gerbang Marhamah* programme, to revive Islamic norms.[36] The programme is promoted all over Cianjur and is therefore well-known. A large gate as you enter the city of Cianjur has the words 'Gerbang Marhamah' written on it.

A number of regulations were issued to support its implementation, one of which is the regulation on clothing. Although only female civil servants have to wear a jilbab, the main Gerbang Marhamah project aims at all Muslim women. The word *akhlak*, meaning 'good conduct', is frequently used in official documents and regulations. It is mentioned in the overall 'vision' of Cianjur city – Cianjur Healthier, Smarter, More Prosperous, and Better Behaved – and in its 'missions', one of which is to intensify 'the building of a better morality in society, the nation, and the state'. Akhlak is also used in a number of slogans. One, displayed on large billboards in the city, urges the people in Cianjur to improve their moral conduct and become model Muslims: '[i]mprove your morality, and your faith becomes perfect'. While such slogans are directed at Cianjur citizens of both sexes, one slogan on another giant billboard specifically urges Muslim women to cover their heads, as this is considered to be a sign of piety. The slogan reads, 'Veiling is a distinguishing mark of pious Muslim women'.

Earlier research by Komnas Perempuan (Women's National Commission), the Centre for the Study of Religion and Culture (CSRC) and the Wahid Institute has drawn attention to three cases in which three non-Muslim women, working at a post office, as a school teacher, and teaching at the State Senior High School, were forced to wear a jilbab. It was claimed that while a non-Muslim student does not have to cover her head, a non-Muslim teacher has no choice but to follow the regulation, as teachers should set an example for their students.

In fact, there does not seem to be much opposition to the jilbab rule. An increasing number of women see covering the head as a religious obligation. Most of the Muslim women in Cianjur I interviewed appear to regard the jilbab policy as positive, while in government offices,

36 Jaih Mubarak, 'Gerakan Pelaksanaan Syariah Islam di Cianjur', a paper presented at the Annual Conference (Konferensi Tahunan) Pascasarjana PTAIN se-Indonesia, held by the Graduate School of IAIN Ar-Raniry Banda Aceh and the Ministry of Religious Affairs, 1–4 December 2004, Banda Aceh NAD.

such as that of the local administration and the Regional House of Representatives, and in police stations and the public hospital, the regulation is widely accepted. Of the 14 female officials of the regional administration I interviewed, only four did not agree with the regulation. At the hospital the four senior staff members I talked to all agreed with the jilbab policy. According to one of them all Muslim female employees, including nurses and doctors, wear a jilbab.[37] At the police station it was the same, but with one important difference. All female civil servants who worked there wore a jilbab, but the majority of female police officers did not. They are employed by the national police, not by the Cianjur administration and said they were therefore not bound by Cianjur's local regulations. Public servants treated all women coming to their office equally, whether they wore a headdress or not, but women who did not cover their heads were reminded of the Gerbang Marhamah programme and asked to wear a jilbab on a next visit.

The religious court is another state institution in Cianjur where the female staff have to wear a jilbab. They treat female litigants coming to court without one well, but often recommend wearing a jilbab upon their next attendance.[38] Only a few judges appear to be aware of the regulation. One reason could be that many of them come from outside Cianjur. Judges are selected and are consequently placed at courts where there is a vacancy and are often transferred from one court to another.[39] That said, all female judges wear a headdress.

5 The Relevance of Sharia-Based Laws in Indonesia to International Treaties: Some Voices and a Critical Analysis

In this section the Kompilasi and the local Sharia-based regulations will be analysed from two perspectives. The first takes into account a number of international covenants that Indonesia has ratified: the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW),

37 Interview with DK, the head of the Department of Information and Public Relations Department of the public hospital of Cianjur, Cianjur, 17 December 2011.

38 This differs from the court of Ciamis which, according to one of my correspondents, has spare jilbabs in the office for female litigants who arrive at hearings without one.

39 See Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practices of the Indonesian Religious Courts* (Amsterdam: Amsterdam University Press, 2010).

the International Convention on Civil and Political Rights (ICCPR), and the International Convention on the Rights of the Child (CRC).[40] CRC is an international treaty that affirms the basic rights of children.[41] CEDAW first came into force in 1981 and requires all state signatories to eliminate discrimination on the basis of gender in public and private spheres.[42] The ICCPR stresses that men and women should enjoy equal access to all civil and political rights[43] and it requires the settlement of principles of legal certainty for any legal action.[44] The second perspective concerns the opinions of gender activists and other women's voices.

5.1 Polygamy: Rules and Actual Practice

Right to Legal Certainty

Indonesia has made a serious legal attempt to restrict polygamy. However, most Islamic court judges basically accept the practice and allow that the disapproval of wives can be ignored in certain instances. The fact that local ulama continue to help husbands to practise polygamy also demonstrates that the state has so far failed to create legal certainty. Moreover, judges often rule that polygamy is better than leaving husbands vulnerable to committing zina. The continued acceptance and approval of polygamy by judges and by local ulama in Indonesia violates international regulations. The laws and regulations on polygamy and their application, therefore, must be reviewed, as they have prevented women from obtaining legal certainty, a right that is and should be protected by CEDAW and the Indonesian state. Such a review should address the question whether proponents of polygamy consider it a religious right or doctrine or a legal right of men. This question needs an exact answer in order to establish legal certainty, as many women in Indonesia are uncertain about whether or not they have a right to speak out against polygamy. The review should also focus on the protection of the first wife's standard of living. It is not uncommon for first wives to be forced to accept a lower standard of living or to end their marriage because of their husband's polygamy.

40 CEDAW was adopted on 18 December 1979, entered into force on 3 September 1981, and Indonesia ratified it in 1984. The ICCPR was adopted on 16 December 1966, entered into force on 23 March 1976, and was ratified by Indonesia in 2006.

41 The CRC was adopted on 20 November 1989, entered into force on 2 September 1990, and was ratified by Indonesia in 1990.

42 CEDAW Article 2.

43 ICCPR Article 3.

44 ICCPR Article 15.

Right to Equality

The laws and regulations on and the practice of polygamy also violate the articles of CEDAW regarding equality. CEDAW affirms equality to all people, men and women, within marriage. Article 16 of CEDAW states that:

> Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent.

Article 59 of the Kompilasi states that the consent of a wife can be dispensed with when certain conditions, which often do not concern the wife, are met. Moreover, even in the case of the absence of any stated criteria, judges are not required to see whether or not the consent of the wife is given sincerely. Although almost all of the women interviewed said that they agreed with the laws that allow polygamy, they also stated that if their own husband wanted to marry an additional wife they would object. This suggests that although not many wives would sincerely consent to their husband's proposal for polygamy, husbands can in court still obtain the required consent from their wives. This illustrates an inequality. In practice, polygamy seems to be considered as a man's right, leaving women little choice but to agree. Saying 'no' can mean the end of the marriage on which they are often financially dependent.

In this context, the Law on the Elimination of Domestic Violence (UU Penghapusan Kekerasan dalam Rumah Tangga No. 23/2004) needs to be mentioned. It provides detailed rules in relation to domestic violence and categorises violence into four types: physical, mental, sexual and neglect (*penelantaran*) of financial support and childcare.[45] A polygamous marriage that results in a wife suffering can be considered as a form of mental violence. Researchers such as Nurmila and Brenner have pointed to polygamy having such effects on existing marriages.[46] Nonetheless, it

45 See Arts. 5, 6, 7, and 8 of UU PKDRT. See also Ratna Batara Munti, *Advokasi Kebijakan Pro Perempuan: Agenda Politik untuk Kesetaraan dan Demokrasi*, (Jakarta: Yayasan TIFA dan PSKW Pasca Sarjana UI, 2008).

46 See, for example, Nina Nurmila, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia* (London and New York: Routledge, 2009); Syzanne Brenner, 'Holy Matrimony? The Print of Politics of Polygamy in Indonesia', in Andrew N. Weintraub, *Islam and Popular Culture in Indonesia and Malaysia* (London

seems that rather than referring to and considering such conventions and Law No. 23 and viewing polygamy as a form of domestic violence, judges in the cases I studied tend to consult fiqh doctrines and Qur'anic verses, and apply the rules in the Kompilasi loosely.[47]

5.2 The Requirement to Wear a jilbab

If we refer to CEDAW and ICCPR, the requirement by the state to wear a jilbab may violate human rights. The violated rights include, at the very least, the right to freedom of religion and the right to freedom of expression and equality.

Right to Freedom of Religion

The ICCPR, which was ratified by Indonesia in 2006, states that no one shall be subject to coercion which would impair his (or her) freedom to have or adopt a religion or belief of his (or her) choice (ICCPR Art. 18).[48] The UN HRC's (Human Rights Committee) general comment No. 22 was issued to clarify the article and states that governments can limit the right of freedom of religion only when it is necessary to protect public safety, public order, health or the fundamental rights and freedom of others. Any restriction must be non-discriminatory and proportionate.[49] The requirement to wear a jilbab violates the right of freedom to religion, as the state has limited the right to freedom of one's religious conviction. In this respect I agree with Asma Jahangir, who argues that in Aceh the state has forced its citizens to conform to one religious interpretation of proper attire without the freedom to choose.[50] However, even within Islam opinions differ about the obligation to wear a jilbab because the Qur'anic

and New York: Routledge, 2011), 212–234; and, Naoko Yamada, 'Intertwining Norms and Laws in the Discourse of Polygamy in Early Twentieth Century West Sumatera', in Yoko Hayami (ed.), *The Family in Flux in Southeast Asia: Institution, Ideology, Practice* (Japan: Kyoto University Press, 2012), 63–86.

47 See Euis Nurlaelawati, *Modernization, Tradition and Identity*, 178–179.

48 ICCPR Article 18.

49 General Comment No. 22, UN HRC.

50 As quoted in Human Rights Watch's report on the application of Sharia in Aceh, the UN special rapporteur on freedom of religion and belief, Asma Jahangir, is of the opinion that the state has violated international human law when handing out religious sanctions to people that do not abide by religious doctrines. He stated that 'the use of coercive methods and sanctions applied to individuals who do not wish to wear a religious dress of a specific symbol seen as sanctioned by religion is generally in violation of international human law'. See Human Rights Watch, *Policing Morality* (2010), 64–65.

verses regarding the requirement to wear a jilbab can be interpreted in different ways.[51] Muslim women, therefore, should be able to choose what to wear according to their own religious beliefs. The state has an obligation to protect women's right to choose.[52]

Right to Freedom of Expression and Equality

Article 3 of the ICCPR states that men and women should enjoy equal access to all civil and political rights.[53] It affirms the equality of all people. It also protects freedom of expression through symbolic signs, including through clothes, and the freedom to appear in public without fear. CEDAW also deals with these matters and states that the state must 'refrain from engaging in any act or practice of discrimination against women'.[54]

Even though, and in contrast to cases in Aceh, the regulation on wearing a jilbab in Cianjur applies only to civil servants and its application is not as strict as that in Aceh, controlling the ways women dress is a violation of human rights. The state should protect every citizen's behaviour as long as it does not harm public life. The view that 'inappropriate' women's dress constitutes a moral hazard is weak and lacks evidence; it cannot be taken as a basis for controlling the bodies of citizens, i.e. women. The state requiring women to hide their bodies constitutes female oppression, discrimination and gender inequality, and disadvantages those who do not abide by the rules. Furthermore, although there is no clear evidence of resistance from women in Cianjur, the state controlling ways people dress is a violation of their right of expression in the public sphere. Mulia, for example, highlights this and states that Sharia-influenced local regulations 'strengthen the subordination of women, limit their right to choose how they dress, limit their room to move freely and mobility, and limit their activities at night'.[55]

51 For the discussion of different views on the jilbab see generally Jamal A. Badawi, 'The Muslim Woman's Dress According to the Qur'an and Sunnah', Islamic Propagation Centre International, 1998. See also S. Mutawalli ad-Darsh, *Hijab or Niqab: Muslim Women's Dress*, Islamic Book Trust, 1997. In Indonesia, different views also exist among Muslim scholars. Quraish Shihab, for example, is of the opinion that the jilbab is not an obligation. See Quraish Shihab, *Tafsir al-Misbah* (Jakarta: Lentera Hati, 2002), 32, and *Wawasan al-Qur'an* (Bandung: PT. Mizan Pustaka), 228.

52 ICCPR Article 18(1). For a good discussion of this see C. Evans, *The Right to Freedom of Religion under International Law* (Oxford: Oxford University Press, 2001).

53 ICCPR Article 3.

54 CEDAW Article 2.

55 See Musdah Mulia, 'Perda Shariat dan Peminggiran Perempuan', a paper presented

5.3 Recent Legal Developments, Human Rights and Gender Notions: Judicial Review to Protect the Rights of Women and Children

Gender and women's rights activists affiliated to a number of institutions and NGOs, such as Rahima, Fahmina, Puan Amal Hayati, the Komnas Perempuan (Women's National Commission), and the LBH APIK (Legal Aid Centre for Women), have struggled to improve women's legal status. They have directed their activism not just at the state, but also at their own Islamic communities. As White notes, they have sought to change gender attitudes at both the intellectual and the grassroots level.[56] They hold seminars to disseminate ideas on gender equality and to challenge traditional interpretations of Islamic teaching, and they train men and women to be 'gender sensitive' in their actions and ideals.[57] With the same aim, they also publish journals focusing on gender issues. In doing so, they attempt to contribute to the public debate and public policy on women and gender issues.

Among the significant attempts made by these women's rights activists were the proposal for a Counter Legal Draft of the Kompilasi and a proposal for a law on the elimination of domestic violence. Unfortunately the Counter Legal Draft was dismissed. Its provisions were too controversial.[58] The draft on the elimination of domestic violence was issued in 2004 as Law No. 23/2004.

Recently two well-known Indonesian women have sought judicial review in response to what they consider to be a gender bias and the subordination of women in the decisions of judges. One judicial review is sought by Halimah, the ex-wife of Bambang Trihatmojo, one of the sons of former President Suharto. She felt that she had been treated unfairly in court after she rejected her husband's petition to divorce her on the grounds of continuous dispute. She believed that the decision made by the religious court to approve her husband's petition had no appropriate legal basis and had harmed and subordinated her. She therefore appealed.

at an Indonesian Conference on Religion and Peace, dated 11 August 2006, www.icrp-online.org (accessed 25 October 2012).

56 Sally White and Maria Ulfah Anshor, 'Islam and Gender in Contemporary Indonesia', 139.

57 See ibid. See also Arskal Salim, *Demi Keadilan dan Kesetaraan*, 23–40, and Burhanuddin and Oman Fathurrahman, *Tentang Perempuan Islam: Wacana dan Gerakan* (Jakarta: Gramedia Pustaka/ PPIM, 2004), 113–152. See also a number of policy reports written by The Asia Foundation on the programme of women's empowerment at http://asiafoundation.org/.

58 See Euis Nurlaelawati, *Modernization, Tradition, and Identity*, 125–130. See also White and Anshor, 'Islam and Gender in Contemporary Indonesia', 146.

The appellate court accepted her arguments and overruled the decision of the first instance court. After Halimah had won her case in the appellate court, Bambang filed a case with the Supreme Court, which rejected his appeal. He did not give up and asked the Supreme Court to review the decision. Consequently, the Supreme Court decided to revise its decision and approved the petition to divorce Halimah. Yet, Halimah did not give up either. She scrutinised the legal arguments used by the judges and decided to appeal to the Constitutional Court. She referred to Article 39(2f) of the Marriage Law No. 1/1974, which is in accordance with Article 116 of the Kompilasi. Both regulate the procedures and grounds for divorce and stipulate that one of the grounds on which a petition for divorce may be approved is a protracted or continuous dispute between spouses. Halimah argued that nowhere is it specified in detail what the conditions for a continuous dispute are. In other words, she questioned the type of dispute that the judges might consider to be valid grounds for divorce.[59] Halimah admitted that she had had several disputes and arguments with her husband, but insisted that the source of their discord was the fact that her husband had married another woman, Mayangsari, a famous singer.[60] She requested the annulment of the article that laid down protracted or continuous dispute as a valid basis for divorce. However, Halimah's attempts were unsuccessful as, after several hearings and discussions, the Constitutional Court rejected her request.[61] According to Mahfud MD, the chairman of the Constitutional Court, the article should be retained to provide a legal recourse for couples who, due to continuous disputes, cannot achieve the sacred purpose of marriage.[62]

The other judicial review was sought by Machicha Muchtar, the unofficial ex-wife of Murdiono, a former state secretary (*Sekretaris Negara*). The intention of her request was to protect, besides the rights of women, the rights of children. For a long time Machicha had not been able, despite many attempts, to obtain legal documents for her son, born during her unofficial marriage with Murdiono, that stated a legal relationship to his biological father. She was married to Murdiono in 1993 without registration and bore him a baby, named Muhammad Iqbal Ramadhan. At the time, Murdiono was tied by the marriage to his first wife. Having married informally, Machicha was not considered a

59 'Halimah Kamil Files Judicial Review', *The Jakarta Post*, 11 July 2011.

60 'Halimah Agustina Kamil Gave Evidence in Judicial Review of Act of Marriage', www.mahkamahkonstitusi, 21 July 2011 (accessed 7 August 2012).

61 Ibid. See also 'Gugatan Ditolak MK, Halimah tak Akan Rujuk', *Kapanlagi.com*, 27 March 2012 (accessed 12 August 2012).

62 'Gugatan Ditolak MK, Halimah tak Akan Rujuk', 27 March 2012.

legitimate spouse and had difficulty obtaining legal documents for her son, including a birth certificate. Worse still, later Murdiono divorced Machicha according to Islamic law and refused to recognise Iqbal as his son. He paid no financial support for Iqbal. Machicha turned to a religious court in 2008 to ask for an *isbat nikah* (a legal and official confirmation of her marriage) and for legalisation of the status of her son. She was not able to prove the existence of the marriage contract, since Murdiono refused to appear. Hence, she failed to obtain the certificate of marriage confirmation and to obtain formal recognition of her child's legal relation with his biological father.[63] The court can provide an isbat nikah only if both parties agree of their own free will that they have concluded an Islamic marriage.

Machicha decided to turn to the Constitutional Court for judicial review of Article 43 of the Marriage Law that, according to her, harmed her and her son's interest, and which regulates the legal status of children and their relations to their mother and father. It states that children born out of wedlock only have a legal relationship with their mother and their mother's relatives. In relation to this issue, Article 4 should also be mentioned, which states that a legal child is a child born during the existence of an official marriage, has been conceived during such a marriage even if the birth takes place after the dissolution of the marriage, or if he or she is born as a result of technological reproduction such as in vitro fertilization. Machicha won her case. The Constitutional Court decided to amend Article 43 to the effect that children born out of wedlock also have a legal relation to their biological father if medical technology can convincingly prove his biological paternity.[64] The court took the position that it is not fair and proper to pronounce or decree that children born out of wedlock have a legal private relationship with only their mothers and thus to free men, who have had sexual intercourse that resulted in a pregnancy, from financial or custodial responsibilities to their children.

This decision gave rise to many negative reactions, since it was considered to deviate from classical Islamic jurisprudence. Machicha's legal expert, Nurul Irfan, who is a lecturer at the Faculty of Sharia and Law of the State Islamic University, Jakarta, was criticised by his senior colleagues, who accused him of having gone far beyond fiqh.[65] Muslim organisations such as the MUI (Indonesian Council of Religious Scholars)

63 Interview with Nurul Irfan, Jakarta, May 2012.

64 'MK Sahkan Status Anak di Luar Nikah Resmi', *Kompas*, 19 February 2012 (accessed 11 July 2012).

65 Interview with Nurul Irfan, Jakarta, May 2012.

also opposed the decision. The commission of law and legislation of the MUI claimed that adultery was being legalised because of the Constitutional Court's decision, which stressed that the words 'out of marriage' not only referred to unregistered Islamic marriages but also to adultery. It also asserted that the court had gone beyond Sharia and beyond what was actually being appealed by the petitioner. While Machicha had asked for recognition of the legal status of her son born out of her unregistered marriage, the Constitutional Court had dealt with a broader issue, the legal status of all children born out of wedlock.[66]

The MUI decided to issue a fatwa. Although the basic references of the fatwa are the Qur'an, Hadith, and fiqh doctrines, and the fatwa affirms the absence of a legal relationship between children and their biological fathers, it introduced a new element to accommodate the interests of the child. The fatwa mentions that the government is entitled to force male adulterers to provide proper financial support for their children, and to award property or estate through a *wasiat wajiba* (obligatory bequest) after their death. The MUI took care to add that this did not mean the legalisation of relations between children and their biological fathers, but that the provision was merely intended to protect the rights of children.[67]

In contrast, the National Commission of Child Protection (Komisi Nasional Perlindungan Anak or Komnas Anak) applauded the decision and considered it to be a good solution to one of the biggest problems it regularly had to deal with. Its chairman, Arist Merdeka Sirait, stated that 'in 2011, there were 38 cases on the legal status of children born out of wedlock brought to us [Komnas Anak], in which the private rights and custodial right of the children involved were questioned'. He hoped that those cases could now be resolved and children would get their basic rights.[68]

What Halimah and Machicha did, in my view, constitutes the seed of legal development and demonstrates the awakening of Muslim women's legal awareness in general. It also shows how notions of human rights and gender have gradually started to spread. Their cases demonstrate that there is a public debate on gender issues in Indonesia. They also send the message that, following international standards on the principles of equality and justice, women's empowerment results in stronger legal positions.

66 'Keputusan MK Kebablasan', *Kompas*, 9 April 2012 (accessed 23 July 2012).

67 See Fatwa MUI No. 11/ 2012.

68 'MK Sahkan Anak Lahir di Luar Nikah Resmi', *Kompas*, 19 February 2012 (accessed 11 July 2012).

Circuit court hearing conducted by the Islamic court of Tangerang (by courtesy of Islamic court of Tangerang)

6 Conclusion

To address women's subordinate position as prescribed by classical Islamic family law, the Indonesian government initiated legal reforms and introduced new rules at the national level, such as the 1974 Law of Marriage and the 1991 Kompilasi Hukum Islam, to improve women's standing in family law. For example, a husband's right to unilateral divorce was limited, polygamy was restricted, and women's rights to property were strengthened through the rule of joint property within the marital bond. There are, therefore, cases related to divorce, post-divorce spousal alimony and isbat nikah where women have benefited, although these remain few and far between. The increase in women's legal knowledge and better services provided by courts, influenced by both national concerns and international conventions, have brought women better access to justice. Almost all their divorce petitions end in approval and they are now better able to deal with their divorce proceedings because of recently developed programmes of 'prodeo' and circuit courts. Due to the awakening of judges' gender sensitivity they can also obtain their rights to spousal alimony.

However, despite the reforms, this research on proceedings at three religious courts in Cianjur and Banten has shown that women continue to remain subordinate and weak in cases of polygamy, custody and post-divorce alimony for their children. In the case of polygamy, the strict interpretation of the Qur'an by the judges of religious courts and the lenient application of Islamic law interpreted by the state often result in decisions which go against the interests of Muslim women. The ambiguous legal conception of *maslahat* (public interest) and the absence of a proper mechanism to enforce judges' decisions can have the same negative consequences for women in court cases concerning their right to custody or right to alimony for their children.

The new local Sharia regulations can worsen gender injustice and substantially harm women in the public sphere. Moreover, from the perspective of international legal standards, they do not conform to rights of equality, freedom of religion and expression, protected by the international covenants that have been ratified by Indonesia. Such regulations need to be reviewed because they curb women's freedom to act and violate the protection of human rights in general.

5 The Islamic Court of Bulukumba and Women's Access to Divorce and Post-Divorce Rights

Stijn Cornelis van Huis

Bulukumba is a *kabupaten* (district) on the south-eastern edge of the province of South Sulawesi.[1] The Islamic court is located in the sub-district Ujung Bulu. From Makassar, the capital city of South Sulawesi, it is a 153-km and four-hour-ride to the east along a sometimes bumpy coastal road. In 2009, Bulukumba had 394,746 inhabitants of whom 394,397 were registered as Muslim. At present, the 1,155 square km of Bulukumba's area consists of ten *kecamatan* (sub-districts) 27 *kelurahan* (town quarters) and 99 *desa* (villages). Bulukumba is largely an agrarian district: 67 per cent of the working population are farmers; 14 per cent are involved in trade; 8 per cent work in (governmental) services; and 5e per cent in industry.[2]

1 Introduction

This case study of the Islamic court in Bulukumba, South Sulawesi, is part of a broader research about the relationship between the state, Islam and society in Indonesia. It contributes to Dr Nurlaelawati's research that concerns the role the Islamic court plays regarding women's and children's rights. Based on field work that I conducted from May to August 2011 in Bulukumba this case study looks at the role that the (state) Islamic court plays in Bulukumba's society and focuses on whether women access the court in divorce and post-divorce matters, in which cases and why (not).

As elsewhere in Indonesia and the Islamic world, Bulukumba has issued so-called Sharia byelaws that attempt to regulate public morality and especially (Muslim) women's dress. Through looking at women's

1 The district of Bulukumba has a long history of Dutch rule, which started several years after the Bungaya treaty of 1667. Shortly afterwards, the VOC erected fortress Boele Comba.

2 *Bulukumba dalam Angka 2010*, Pemerintah Kabupaten Bulukumba, 2011.

agency in divorce, I will assess whether those regulations concerning the public sphere signal a stronger control over women in the private sphere. A second focus in this study is the relationship between rules and practice, or in this case rights and practice. Does the fact that, according to Indonesian family law, Muslim women and their children have rights to support and marital property also mean that they can achieve those rights in practice? Through qualitative and quantitative data acquired during a four-month fieldwork period, I try to answer this question and place the answer in the social and cultural context of the women concerned. Finally, this case study looks at the role of the judge, and especially whether the use of judicial discretion is favourable or unfavourable to the women and children involved.

Below I will first give a historical background of Bulukumba, its Islamic court and the Sharia byelaws, before I turn to the main subject of the study, the contemporary Islamic court of Bulukumba and its role in providing divorce and post-divorce rights to women.

2 Bulukumba, its Islamic Court and its Sharia Byelaws

2.1 The Islamic Court Formally Established in South Sulawesi

On 17 August 1945 Sukarno and Mohammad Hatta proclaimed the Republic of Indonesia. To the disappointment of some Islamist groups the Indonesian Constitution of 1945 was not based on the Sharia but on the Pancasila which in one of its pillars speaks of 'the belief in one God' and did not specifically mention Islam. Nonetheless, the Indonesian political and legal system is not secular and gives ample room for Islamic institutions. In 1946 the Ministry of Religion was established which became a bulwark of politicians of the Muslim parties and a supporter of Islamic courts.[3] Even though a strong faction of non-Muslim political parties in the national Parliament wanted to do away altogether with the Islamic court, the Muslim parties succeeded in preventing this from happening. Eventually a national Islamic court system was set up by the central government in Jakarta.

In the late colonial period, the Dutch only recognised Islamic courts in Java, Madura and South Kalimantan and consequently in South Sulawesi – where Islamic courts had existed,[4] but were not formally

3 Daniel S. Lev, *Islamic Courts in Indonesia: A Study in the Political Bases of Legal Institutions* (Berkeley: University of California Press, 1972).

4 *Regeeringsrapporten over de Mohammedaansche Rechtspraak op de Buitenbezittin-*

recognised by the Dutch; it was adat courts that formally were competent to adjudicate on cases pertaining to marriage and divorce. Government Regulation 45/1957 regulated that all districts outside Java ought to set up an Islamic court – including regions where previously no Islamic courts had existed – with competence in marriage and divorce matters. The Marriage Law of 1974 formally and legally established the Islamic court's competence in Muslim marriage and divorce, a competence which was broadened with inheritance and *waqf* (religious endowments) matters in 1989 and Sharia economics in 2006. As a result of the Government Regulation of 1957, Islamic courts were set up in each district in South Sulawesi.

2.2 The Darul Islam and the Incorporation of the Military in the Traditional Aristocracy

When the Dutch decided to recognise Indonesia's independence in 1949, the guerrilla warfare that marked the independence struggle in South Sulawesi was far from over. The Indonesian national army did not incorporate all the guerrillas that had fought against the Dutch, meaning that many dissatisfied fighters roamed the countryside of South Sulawesi. In 1951, Sukarno turned the Indonesian federation into a unitary republic, which – especially outside Java – met with strong resistance. Moreover, contrary to what the more Islamist guerrilla groups had hoped for, the Indonesian state did not become an Islamic state based on Sharia. When Kahar Muzakkar decided to join the Islamic rebellion of the Darul Islam and become its leader in South Sulawesi, he attracted substantial support from these dissatisfied guerrillas.

In the end, it took the Indonesian forces 14 years to defeat the Darul Islam rebellion in South Sulawesi. In 1965, Kahar Muzakkar was killed by Indonesian forces in an ambush. The same year saw the failed communist coup which was followed by the wiping out of the communist party and the coming to power of General Suharto. Gradually, a new military order was installed in Indonesia. In South Sulawesi the new military elite merged with the old aristocratic elite. As a result, the old patron–client relations between the aristocracy and their followers survived the New Order and remained the power base of the ruling clans of South Sulawesi.

Even so, the imagined local history of the Darul Islam remained attractive for those regional Islamists who opposed the customary base

gen commissioned by circulair 1876 No. 7276/8576 of the Department of Justice. Adatrechtbundel I: 225–234.

for power as well as for those regionalists who opposed centralised power in Jakarta. As a result, Islamic values increasingly became part of the local identity of the Bugis and Makassarese in South Sulawesi, and when the New Order ended and regional identity politics started, Islamic values increasingly became part of local political discourses.

2.3 Islamisation of Politics in South Sulawesi after 1998

After the fall of Suharto in 1998 Islamist ideas that had been repressed came to the surface. In 2000, the Preparatory Committee for the Implementation of the Sharia in Indonesia (Komite Persiapan Penerapan Syariah se-Indonesia, KPPSI) was founded during a meeting in Makassar with the participation of representatives of all major Muslim organisations (the NU, Muhammadiyah, the MUI, the ICMI, the HMI, the DDI and others) and a variety of prominent figures including Jusuf Kalla (vice-president of Indonesia between 2004 and 2009), the president of the Partai Islam seMalaysia (PAS), the deans of Universitas Muslim Indonesia and the Law Faculty of Universitas Hasanuddin, and the infamous Abu Bakar Ba'asyir.

Not surprisingly, the main point on the KPPSI's agenda was the incorporation of Sharia-inspired regulations into the legal system of South Sulawesi. Politically, the KPPSI took, and still takes, an anti-New Order and anti-corruption stance. Sharia will increase law and order, so the argument goes. Moreover, the KPPSI argued that the Sharia policy for Aceh has opened up the legal possibility for a further 'shariatisation' of regions with a traditionally strong Islamic character.[5]

The members at the first meeting agreed to establish the Laskar Jundullah, a paramilitary organisation that could be used to pressurise politicians to adopt Sharia-inspired regulations and to oversee their enforcement. Furthermore, in an act of symbolism, Abdul Azis Kahar Muzakkar, the son of the executed Darul Islam leader of South Sulawesi, was chosen as head of the executive board of the KPPSI.

The KPPSI lost its political legitimacy due to terrorism allegations against some of the members of Laskar Jundullah after several bomb attacks hit Makassar in the years 2000 to 2004, as well as the latter's alleged involvement in the interreligious conflict in Poso in the same period.[6] The Sharia agenda of the KPPSI, however, was taken up by the

5 Michael Buehler, *Democratization and Islamization: Indonesia's non fundamentalist sources of Shari'a law*. Paper presented at the AAS Annual meeting, Atlanta, USA, 3–6 April 2008.

6 Ibid.

mainstream political parties in South Sulawesi that typically are headed by members of the local aristocracy.

Michael Buehler sheds light on the possible political motives for the Islamic turn of the nobility.[7] First, the Sharia agenda includes regulations concerning the management of *zakat* (mandatory charity). Those zakat regulations introduced a fixed zakat tax on the salaries of civil servants, which ensures a steady flow of money intended for Islamic charity. Through the distribution of Islamic charity money, the district heads can play their traditional role as patrons by creating and capitalising on pyramidical hierarchies in the Islamic networks. In return for the prioritisation of Islamic matters and an increase in funds the religious figures (*ustadz(a)* and *ulama*) are expected to act as brokers for those in power. As of 2007, all Buginese and Makassarese majority districts had enacted Sharia-inspired regulations, Bulukumba being one of the first.[8]

2.4 Bulukumba's Sharia Byelaws

The district head of Bulukumba for the years 1995–2005, Patabai Pabokori, a high noble and KPPSI member since its establishment in 2000, has actively promoted and introduced Sharia byelaws in Bulukumba. Since 2002, Sharia byelaws have been introduced concerning prohibitions on alcohol,[9] the management of Islamic charity (zakat, *infaq* and *sedekah*),[10] Muslim dress-codes in governmental buildings[11] and the ability to recite the Qur'an set as a requirement for marriage, secondary school and certain positions in the bureaucracy.[12]

In addition to that, 12 *desa percontohan* (model villages) or *desa Muslim* (Muslim villages) were established (at least one in each sub-district), the apparatus of which is expected to encourage 'adherence to the Sharia in every day life of the inhabitants of the village' and to set the example for other villages in the sub-district. The introduction of Sharia byelaws in Bulukumba has attracted media attention,[13] and the move by the Muslim

7 Michael Buehler, 'The rise of shari'a by-laws in Indonesian districts: an indication for changing patterns of power accumulation and political corruption', *South East Asia Research*, 2008, 16 (2): 255–285.

8 Michael Buehler, 'The rise of shari'a by-laws in Indonesian districts', 2008.

9 Local regulation No. 3 of 2002.

10 Local regulation No. 2 of 2003.

11 Local regulation No. 5 of 2003 and local regulation No. 6 of 2005.

12 Local regulation No. 6 of 2005.

13 See for example Gamal Ferdhi, Nurul H. Maarif, 'Depancasilaisasi Lewat Perda SI', *The Wahid Institute edisi VII*, in: *Gatra*, edisi 24/XII, 29 April 2006; Subair

village council of Padang – as one of the first places outside Aceh – to implement caning as a penalty for close proximity with the opposite sex (*khalwat*) in 2005 was even taken up by the National Commission for the Elimination of Violence against Women (Komisi Nasional Anti Kekerasan Terhadap Perempuan, Komnas Perempuan) in 2009.

In 2007, Bulukumba's Sharia politics reached the national newspapers once again when desa Padang wanted to introduce the punishment of amputation for theft. This time, the district government intervened and declared that caning and amputations are illegal under Indonesian law and the deputy-bupati stated that since 'Bulukumba is not an independent republic' the practices are illegal in Bulukumba.[14] According to a female activist from the village, who had testified for Komnas Perempuan in one of the caning cases, no new caning punishments have taken place since.[15]

Students of the Teachers Academy for Islamic Studies (Sekolah Tinggi Agama Islam, STAI) Al-Gazali, who have assisted me with my field work, told me that district head Patabai Pabokori's successors (AM Sukri Sappewali (2005–2010) and Zainuddin Hasan (2010–present)) indeed are more moderate with regard to Sharia policies, even if the Sharia byelaws remain in force. They explained to me that this can be partly explained by the collapse of the Laskar Jundullah who used to act as some kind of 'Sharia police'. Although I had not been in Bulukumba before 2010 and I cannot compare the situation with that in 2005, I did notice that in at least one Muslim village there were Muslim women who did not wear a veil in public and, moreover, did not object to being interviewed by a male Western researcher and a male research assistant without a male relative being present – acts which can be considered to be contrary to the aim of Muslim villages implementing Sharia values in the every day life of the villagers.[16]

Such experiences give the impression that the height of the *syariasasi* (shariatisation) in Bulukumba is behind us. Moreover, if Michael Buehler's analysis is right, then the local elite was interested not so much in the *syariasasi* itself, but more in the patronage networks they could build through the process. This is not to say that the Sharia byelaws

Umam, 'Formalisasi Syarat Islam Perjuangan Ahistori: Belajar dari Bulukumba dan Luwu', *the Wahid Institute*, Edisi 1, November 2005–February 2006.

14 Abdul Manan and Irmawati, 'Bukan Republik Bulukumba', *Tempo*, Edisi 41/XXXVI/03, 3–9 December 2007.

15 Interview with Bu Esse of the local women's organisation Sipakatua Sipakalebbi, 9 November 2010, Bulukumba.

16 My own observation during an interview with Bu M in desa Muslim Balong, kecamatan Ujung Loe, Bulukumba, 23 July 2011.

Islamic Court of Justice, Bulukumba

are without effect. Government offices implement the veiling obligation in government buildings and refuse to help unveiled Muslim women.[17] Due to public pressure, the abovementioned female activist from desa Muslim Padang, currently always wears a veil in public, whilst before 2003 she never did so.

2.5 The Islamic Court and the Sharia Byelaws

The Islamic court of Bulukumba also implements the veiling regulation, although no visible signs are displayed explicitly instructing women to do so. Pak Muhammad Rusydi Thahir, the head of the Islamic court of Bulukumba in 2010–2011, is an outspoken proponent of the Sharia byelaws. According to him, they will bring benefit to the community (*kemaslahatan*) as Allah will reward good conduct. He did not look favourably on gender activists and the researchers of Komnas Perempuan, who, he said, came to Bulukumba for a few days in 2009 and, based on very little knowledge, wrote a long and judgemental report.[18]

17 Interview with Nurlaila Umat, an official of KemenAg Bulukumba, Urusan Agama Islam, 3 August 2011.

18 Interview with Pak Muhammad Rusydi Thahrir, the head of the Islamic court of Bulukumba, 9 November 2010.

As a consequence of the veiling policy, women who do not wear a veil on a daily basis will put on a veil before entering the court and take it off again on leaving. In the 100 plus hearings studied for this research, I observed only one occasion when an unveiled woman was able to enter the courtroom. It concerned a woman of high status whom the clerks (and the judges) clearly did not dare to correct. On another occasion, an unveiled woman who came to the Islamic court as a witness and had not brought a veil with her was requested by the assistant-clerk to put on a *mukenah* (praying dress for Muslim women) instead, before entering the court room.

3 The Islamic Court of Bulukumba and Women's Divorce Rights

3.1 Divorce in Bulukumba: Rights Awareness and Women's Agency in Divorce

Although it perhaps seems to make sense to start with marriage and proceed with divorce, I will focus on divorce in Bulukumba first, as divorce is the research object through which the position and functioning of the Islamic court is assessed. Marriage, on the other hand, is made subsidiary to divorce and is only examined in so far its local characteristics are relevant to divorce and post-divorce rights in Bulukumba.

There are no statistics about the divorce rate in Bulukumba and a short fieldwork period does not provide enough data to calculate the probability in a given year that a marriage will end in divorce. Therefore I use an alternative way to calculate the divorce rate, that is by dividing the number of divorces in a given year with the number of marriages in the same year. According to the annual report of the Islamic court of Bulukumba of 2008, 426 divorce requests were registered that year. The same year, 3,700 marriages were concluded and, thus, the divorce rate of Bulukumba in 2008 was about 11.5 per cent, which is slightly higher than the national divorce rate of 10 per cent for that year.

In the year 2008, 345 of the divorce cases were *gugat cerai* cases, i.e. divorce cases filed by the wife. This means that 81 per cent of the divorces were petitioned by the wife, which is a high number considering the fact that the Marriage Law of 1974 stipulates that male divorces also require court permission and that the *talak* (repudiation) has to be uttered before a judge. In fact the Marriage Law turned the male talak right into a judicial divorce, meaning that both men and women have to petition the Islamic court in order to obtain a legal divorce and that the same divorce grounds apply to both. In 2009, 447 divorces took place, of which 364

(or 81.4 per cent) were filed by the wife. A total of 3,982 marriages were registered that year, setting the divorce rate at 11.2 per cent. In 2010, the numbers were 519 divorces of which 392 (75.5 per cent) were filed by the wife.

In fact, in South Sulawesi women's agency in divorce seems to go far back. Matthes paraphrases the *hoofdpriester* or penghulu (the highest local official on Muslim affairs in colonial times) of Makassar who asserted that during his career he had received dozens of men, but hundreds of women who had come to him seeking divorce.[19] Although there is a possibility that many men at that time did not go to the penghulu because under Islamic law they had the right to divorce their wife without the involvement of anyone else, the large difference between male and female clients in this anecdote indicates that, indeed, more women divorced their husbands than vice versa.

The outcomes of a Divorce Survey indicate that women in Bulukumba indeed do not consider divorce to be a male thing.[20] To the statement, 'the right to divorce is with the husband' an overwhelming 76 per cent of respondents did not agree and an additional 10 per cent did not agree at all, compared with a mere 8 per cent that agreed with this statement. Conversely, women in Bulukumba know that they have the right to divorce their husbands as 60.8 per cent agreed and 36.7 per cent very much agreed with that statement. Most of the women (66.7 per cent) believe that they do not have to 'buy' a divorce through the *khul* procedure (a consensual divorce procedure in Islamic law in which women can offer (part of) the bride price to their husband in return for a divorce), compared to 16.6 per cent that believed returning (part) of the bride price (*mahar*) is the correct means for a woman to secure a divorce if the husband initially does not agree to ending the

19 B.F. Matthes, *Bijdragen tot de ethnologie van Zuid-Celebes* ('s Gravenhage: Gebroeders Belinfante, 1875), 45.

20 A survey concerning divorce and divorce rights was conducted among 120 respondents in four subdistricts. In order of distance from the courts they are: Ujung Bulu, Gantarang, Bonto Bahari and Bulukumpa, spread over four villages and four kampung (town quarters). The targeted sample group consisted of divorced Muslim women, preferably with children, but not necessarily divorced formally at the Islamic court. Unfortunately, in some villages in Bulukumba it was difficult for the surveyors to find the targeted number of divorced women with children (15 respondents per village or hamlet). To be able to reach the target of 15 respondents a number of married women (21) who had experienced a divorce from a previous marriage were included as well as a number of divorced women who did not have children. The latter respondents had to skip some of the questions regarding child support.

marriage. Women are thus well aware that they can divorce on legal grounds bypassing Islamic or adat procedures.

The picture above demonstrates a strong awareness of women's rights to divorce. However, that awareness does not correlate with a perception of the equality of the sexes. Patriarchy is the norm. A staggering 97 per cent of (all female) respondents agreed with the statement that the husband is the leader of the family. The public role of men, including as the head and provider of the family, however, can backfire, as the next example will demonstrate.

One of the divorced women whom I interviewed as part of the qualitative research very much resented the passive and unambitious behaviour of her husband. After marriage she and her husband had to live in the house of her parents-in-law as they were still incapable of maintaining a household of their own. She was eager to move out some day, but her husband did not put much effort into establishing their financial independence. The couple lived mostly on the support of her husband's parents and, to make matters worse, her husband liked to gamble and drink *ballo* (a local-brewed palm wine). She had warned her husband that if he did not give up these money-wasting habits she would leave him. When, one night, he came home late, smelling of alcohol she exploded. '*Saya cambuk dia, pake tongkat*' (I caned him with a stick), she said proudly. Not long after this incident, she filed for divorce at the Islamic court.

The story above indicates that women in Bulukumba possess a lot of authority and independence within the family, although a clear division of roles is still the norm. A good Buginese or Makassarese husband is expected to be ambitious and to do all he can do for the improvement of the family's status and position.[21] Women, on the other hand, are the main decision-makers of the household and the family, especially in conflict situations.[22] If the husband does not act as he is supposed to do, the wife will stand up to him, often backed by her kin, and, ultimately, she will even leave him.

Moreover, in the Buginese-Makassarese bilateral kinship system, women do not have to depend economically on their husband in divorce situations because they can always rely on support from their own

21 Nurul Ilmi Idrus, *'To take each other': Bugis practices of gender, sexuality and marriage*, PhD Thesis, Australian National University, 2003; H.Th. Chabot, *Kinship, status and gender in South Celebes* (Leiden: KITLV Press, 1996).

22 Birgitt Röttger-Rössler, 'Shared responsibility: Some aspects of gender and authority in Makassar society', *Bijdragen tot de Taal-, Land- en Volkenkunde*, 2000, 156 (3): 521–538.

kin and their own inheritance. Since women are considered to be the status-bearers of the kin group, in the middle and higher classes the husband's status and position may in fact be jeopardized by divorce as his status and career, for a large part, has been built through his wife's status and family network.[23]

The latter dependence on the wife's network will only apply when the husband is not a member of the same kin group. Although I cannot present figures here, I have observed during the interviews and courtroom observations that today a considerable number of marriages in Bulukumba are marriages between (second, third, etc.) cousins, arranged by the parents or other family members. Marrying within the kin group traditionally assures the parents that there is no difference in status between the spouses and that land remains within the extended family. In the words of H.Th. Chabot, the goal of cousin marriages is 'keeping the blood pure and the goods together'.[24] Moreover, arranged marriage demonstrates that parents have an obedient daughter, a characteristic of a woman looked upon favourably.[25] That said, arranged marriages in South Sulawesi do not appear to be more stable than other marriages.[26] In the nineteenth century, B.F. Matthes gave an account of the penghulu of Makassar who observed that arranged marriages without consent of the spouses often led to unhappy marriages, adultery and divorce.[27]

The arranged marriages I have observed were concluded at a very young age, thereby increasing the instability of the marriage. One of the women I interviewed had been married off to her first cousin just after she had finished primary school. Her husband was only a few years older. Although clearly she was a minor at the time of the marriage, the imam desa provided her with an official marriage certificate. The marriage only lasted a year, according to her, because her husband 'still acted as a child' ('*Alasannya kayak anak-anak dulu, suamiku*') and was always going out with his friends leaving her at home alone. She being only 13 years of age, she and her family decided to go to the Islamic court to divorce. She did not have to return half of the mahar as is required by law in unconsummated marriages. Indeed, her husband had not asked her to, because 'she was still family'.

To summarise, in the patriarchal society that is Bulukumba, female agency in divorce, as reflected in the outcomes of the survey, can be

23 Ibid.
24 Chabot, *Kinship, status and gender in South Celebes*, 1996: 230.
25 Idrus, '*To take each other*,' 2003: 236–237.
26 Idrus, '*To take each other*,' 2003.
27 Matthes, *Bijdragen tot de ethnologie van Zuid-Celebes*, 1875.

explained by cultural factors. Those cultural factors ensure a larger socio-economic independence of married women than one would expect from the traditional roles most women play – even in arranged marriages.

3.2 Women's Reasons for Divorce

Let us now turn to the reasons for divorce. Women's reasons for divorce do not necessarily correspond with the legal grounds for divorce in the statistics of the Islamic court. The statistics are made by the clerks on the basis of a short screening of the court files. 'Continuous quarrelling' is the easiest legal basis for divorce to be established.[28] Case law even holds that a divorce action in itself is proof of marriage breakdown. Therefore, most clerks will not bother to register other reasons women had to divorce if there is no legal reason to do so (an example of the latter is questioning the husband's moral behaviour in a child custody dispute). Therefore, in court statistics the legal ground of 'continuous quarrelling' absorbs many other reasons women had to divorce.

The survey I held among 120 respondents provides a more reliable picture of the main reasons for divorce. In the questionnaire I adopted a set of reasons for divorce that are similar to the standard grounds in the annual reports of the Islamic court. They are: 'no harmonious relationship', 'my husband had another woman or wife', 'economic reasons', 'domestic violence', 'no offspring' and 'pressure from a third party'. The respondents were asked what the real reasons for divorce were and, unlike the statistics of the grounds for divorce in the annual reports of the Islamic court, they could give multiple answers to make sure that the specific reasons women had for divorce were not simply absorbed by the broad reasons for divorce.

As the outcomes suggest, many women provided multiple answers and, in particular, many combinations occurred with the answer 'no harmonious relationship'. 'No harmonious relationship' tops the list with 36.7 per cent of the respondents giving it as their single answer. A further 40 per cent mentioned it as one of their answers. 'My husband had another woman or wife' was given by only 5 per cent as the sole reason for divorce. However, another 26.7 per cent mention it as one of the reasons, mainly in combination with 'no harmonious relationship'. 'Domestic violence' is mentioned by 8.3 per cent, the same number as 'economic reasons' and 'pressure from a third party'. Finally, 'no offspring' is at the bottom of the list of reasons and is mentioned by only 7.5 per cent of

28 Article 19 (f) of Government Regulation 45/1975.

the respondents. Thus, the main reason for divorce is a lack of harmony between the spouses, followed by adulterous behaviour.

Research in Indonesia and elsewhere has indicated that a young marriage age increases the chance of a divorce occurring.[29] Hence, the survey assessed the age of the respondents when they married for the first time. In Bulukumba, 12.5 per cent of the respondents had been married before the legal age for women to marry, i.e. 16 years. More than half of the respondents had been married before the age of 20. Almost 90 per cent of the respondents were married at the age of 25 years or younger. The mean age for the first marriage of the respondents in Bulukumba is 22.4 years, which is lower than that in South Sulawesi (23.6 years).[30]

When people in Bulukumba marry below the legal age, they do not seem to go to the Islamic court to ask for dispensation (*dispensasi kawin*). In 2010, no such cases were listed. This is rather surprising as 12.5 per cent had been married below the legal age, whilst 98.3 per cent of the respondents answered that the marriage had been officially registered. There are three possible explanations: under-age marriages remain unregistered until the legal age is reached, they are registered by the Offices of Religious Affairs (Kantor Urusan Agama/KUA) the institution under the Ministry of Religion which is responsible for Muslim marriage registration without prior dispensation from the Islamic court, or they received a fake marriage certificate but were unaware of that.

An *isbat nikah* (a court's confirmation of the legality of a marriage) provides a legal means to register informal marriages that were concluded in accordance with religious requirements. In 2010, the Islamic court of Bulukumba received 43 isbat nikah requests (compared to 499 divorce cases). Most isbat nikah cases are related to rights of wives of civil servants: spousal support after a divorce or pensions of widows after their husbands have passed away. Most of these informal marriages had been concluded before the Marriage Law of 1974 came into force. Nonetheless, registration of informal marriages concluded after 1974 also occurs and in some cases under-age marriages are legalised in order to make the legal consequences of the divorce formal, and more specifically the legal rights of the wife and children born out of the unregistered marriage.

29 Gavin W. Jones, 'Which Indonesian women marry youngest, and why?', *Journal of Southeast Asian Studies*, 2001, 32 (1): 67–78; Philip Guest, 'Marital dissolution and development in Indonesia', *Journal of Comparative Family Studies*, 1992, 23 (1): 95–113.

30 Gavin W. Jones, *Marriage and divorce in Islamic South-East Asia* (Kuala Lumpur: Oxford University Press, 1994), 80.

In addition to young marriage, the practice of *merantau*, or husbands who migrate for work, seems to contribute to the divorce figure. In the interviews I held in desa Tamatto in the Ujung Loe subdistrict, several divorced women informed me that the reason for divorce had been that the husband had left South Sulawesi to work and had never sent any money back. In two cases the husband had also informally married a second wife. When the women found out about this they divorced their husbands.

Finally, women's agency in divorce may also be related to *sirri* (honour, status, shame). Confronted with the high percentage of women filing for divorce, Prof. Nuril Ilmi Idrus of Hasanuddin University in Makassar explained to me that it is indeed the custom that women file for divorce, since in Buginese culture women are considered the honour-bearers of the family. If a husband cannot keep up her standard he will be divorced. Moreover, according to Prof. Idrus a Buginese woman will avoid being divorced by her husband and try to convince him to let her divorce him, so that her sirri and also that of her kin remains intact.

To summarise, we have seen that in Bulukumba 75–80 per cent of divorces are filed by women. Divorce is usually caused by intimate, rather than material or economic, reasons. An underlying reason for the problems in the intimate sphere might be the young age of marriage, although in Bulukumba the mean marriage age is above the Indonesian average. Most divorces occur because of the fact that the spouses do not connect well, resulting in quarrels. Those quarrels in many cases are worsened by adultery, (unregistered) polygamy or economic conditions and can even turn violent. However, as the caning example demonstrates, the passivity and socially negative behaviour of the husband have an economic component. Drinking and gambling by the husband costs money and has financial consequences for the family. Women in Bulukumba, being assigned the role of honour-bearers, household managers, and being supported by their kin, are generally sufficiently empowered to break out of an unhappy or disgraceful marriage.

3.3 Judicial Divorce: The Only Socially Accepted Divorce in Bulukumba

The introduction of the Marriage Law in 1974 meant that a divorce must be brought before the court to be formally recognised. Through the Divorce Survey I could assess to what extent the state has managed to put this message across to its citizens in Bulukumba. The results indicate

that in Bulukumba there is sufficient awareness that divorce requires a judicial process and that most divorces are indeed concluded at the Islamic court.

Seventy-two per cent of the respondents had divorced at the Islamic court, compared to 25 per cent who had not. The surveyors have indicated that at least some respondents among this 25 per cent had not divorced in the Islamic court, but their husbands had – sometimes without their knowing. In reality, the percentage of formal divorces may be even higher as the question concerned was probably too ambiguously formulated in terms of discerning whether the women themselves physically went to the court to divorce. However, the figure of 72.5 per cent already indicates that Bulukumba has a relatively low number of informal divorces as compared to the 50 per cent of informal divorces estimated for the whole of Indonesia.[31] To be able to divorce formally, you have to be formally married first. In Bulukumba formal marriage is the norm. A total of 98.3 per cent of the respondents answered that they had registered their first marriage at the Office of Religious Affairs (Kantor Urusan Agama, KUA).[32]

The numbers above indicate that both the right to divorce and the fact that divorce has been turned into a judicial proceeding are publicly known. This is reflected in the figure of 91.7 per cent of the respondents that were aware that one needs to obtain a divorce certificate (*akta cerai*) to be formally divorced. Twenty-five per cent of respondents however, think that a formal divorce can also be arranged at the KUA. Perhaps this reflects the local reality in which KUA or village officials provide mediation and 'legal aid' services and help with the paperwork of a divorce process. The main sources of knowledge about the Islamic court as the place to file a divorce are family and friends (38 respondents), the neighborhood head (Ketua RT) and village officials (*aparat desa*) (14 respondents), the KUA (12 respondents), or they knew it themselves (ten respondents).

Semi-structured interviews with 15 divorced women also confirmed a high level of awareness. Bringing a case to the Islamic court is considered the only way to divorce by most informants. This is reflected in the following answer to the question why the informant went to the Islamic court to divorce and did not divorce informally: '[t]he reason [to divorce]

31 R. Michael Feener and Mark E. Cammack, *Islamic law in contemporary Indonesia: ideas and institutions* (Cambridge, Mass: Harvard University Press, 2007).

32 Non-Muslims have to register their marriages at the civil registry offices (Kantor Pencatatan Sipil) which fall under the responsibility of the Ministry of Justice and Human Rights.

is that I wanted to be unstained (*bersih*), if you only separate like that you will not be clean' ('*Maksudnya kan mau bersih, kalau cuma pisah-pisah begitu saja kan tidak bersih namanya*'). The divorce must be 'black on white' (*hitam di atas putih*), otherwise 'it will be difficult to remarry'.

Another woman relates divorce at the Islamic court with custom (adat-istiadat):

> Researcher: Why did you divorce at the Islamic court and not outside? I ask this question because in a number of areas in Indonesia it is common (*cukup biasa*) to divorce [elsewhere,] not before the Islamic court.
> Informant: Do you mean divorce in the village (*cerai di kampung saja*)?
> Researcher: Yes.
> Informant: Because here that is not customary (*karena adat-istiadatnya disini kan ga begitu*). Here you have to divorce before the court. …
> Researcher: Thus in the village there are no people who are willing to divorce a couple?
> Informant: No, they would not dare (*Gak mau, takut*).

Even if the marriage had an informal status, women prefer an official divorce in order to obtain a clean status. Bu Karmila had been married for nine years and two children were born of the marriage. The marriage had an informal status because the KUA refused to provide the couple with a marriage certificate, since her husband was still registered as married to someone else. Bu Karmila clarified that her former husband had indeed been married before, but had been divorced by his first wife through the Islamic court. According to Bu Karmila, the first wife did not want to cooperate with the remarriage and kept the divorce papers to herself. When, after nine years of marriage, Bu Karmila found out that her husband had been adulterous she wanted to divorce him formally so that she might obtain official divorce papers and be free to remarry formally in the future. The Islamic court advised an isbat nikah procedure, through which the marriage is formally recognised first, after which the divorce can take place.

It remained unclear why the husband had not received a divorce certificate before. To go deeper into this problem would be speculation and beyond the point I want to make: that formal divorces through the Islamic court seem to be the norm in Bulukumba, and informally divorced women are stigmatised. Women are very much made aware

that they had better divorce at the Islamic court, or else they will be considered 'stained women' and not suitable for remarriage.

Because of this stigma and in addition to its judicial role, the Islamic court of Bulukumba is able successfully to fulfill two important roles with regard to divorce: first, the role as registrar of divorces, as part of civil registration of the state; second, providing clear, 'uncontaminated', legal identities to women, so that they become appropriate marriage candidates in their communities. The stigma on informal divorce seems to have a cultural component, but probably is mainly caused by the fact that governmental institutions such as the KUA implement the regulations with regard to divorce and polygamy. That is to say, they are strict on issuing marriage certificates to men (and women) who are still registered as married. Through the stigma on informal divorce, a chain of formality is promoted: formal divorce enables a formal remarriage, which in turn facilitates birth certificates for children born out of a second marriage, making the latter formal heirs, etc.

4 The Islamic Court of Bulukumba and Women's Post-Divorce Rights

Above I have established that the Islamic court is the main forum for divorce in Bulukumba, making divorce very accessible to women. The Islamic court plays an important role in civil registration and endows women and children with a clear marital status as part of their legal identity. Good access to the Islamic court does not automatically mean that post-divorce rights are just as accessible for women. As I have argued elsewhere the role of the Islamic court in settling disputes concerning post-divorce rights is seldom fully assessed.[33] In this section I will look into the role of the Islamic court of Bulukumba in providing access to post-divorce rights.

The focus here is on the frequency of post-divorce cases that have been brought before the court and the reasons for a woman to take or not take a case to the court. Therefore, this part represents research on access to justice, rather than a legal analysis of post-divorce cases. To start with, the number of post-divorce cases that are brought before court is difficult to establish. Most of the post-divorce cases registered by the Islamic court are part of, and filed as, divorce cases. Thus, such cases are

33 A.W. Bedner and S.C. van Huis, 'Plurality of marriage law and marriage registration for Muslims in Indonesia: a plea for pragmatism', *Utrecht Law Review*, 2010, 6 (2), 175–191. http://hdl.handle.net/1887/15745.

Waiting in front of the courtroom, Bulukumba

not registered as post-divorce cases and it would require going through the divorce register books to establish case-by-case whether post-divorce (counter)claims were part of the petition. Having said that, the number of cases at the Islamic court of Bulukumba that include post-divorce claims for the years 2008 and 2009 are as follows:

4.1 Spousal Support Rights

First of all, the spousal support rights can be subdivided into three components: unpaid due maintenance (*nafkah yang lampau*), the gift of consolation (*mut'ah*), and maintenance during the three-month waiting period for the wife (*iddah*) in which the wife may not remarry in order to establish whether she is pregnant (*nafkah iddah*). Nafkah iddah in fact constitutes the wife's right to maintenance during the iddah after her husband's talak. During those three months, the marriage can still be reconciled (*rujuk*) without a new marriage ceremony having to take place, provided the status of the divorce is non-final (*raji'i*).[34] In contrast, under Indonesian Muslim family law, all women-filed divorces are immediately final (*ba'in*) meaning that the wife has no rights to maintenance in the

34 A third talak that takes place within the same marriage is immediately a final divorce.

three-month waiting period (which still applies in order to establish whether or not the woman is pregnant by her now ex-husband).

According to the register of the Islamic court in Bulukumba, in 2008 a total of 14 women made spousal divorce claims in a total of 426 divorce claims (3.3 per cent). However, it is more sensible to compare spousal post-divorce claims with the number of male talak divorce cases since women lack mut'ah and nafkah iddah rights in women-petitioned divorce cases. Thus, in 2008 14 claims divided by 81 talak divorces multiplied by 100 per cent means that 17.3 per cent of women claimed spousal post-divorce rights in talak cases. The percentage of women making spousal divorce claims at the Islamic court for 2009 is thus 3.1 per cent of the total number of divorces and 16.9 per cent of the total of talak divorces.

When the spousal post-divorce rights are subdivided the picture is as follows: in 2008 there were 12 and in 2009 seven nafkah yang lampau claims. In 2008 there were six, and in 2009 seven nafkah iddah claims. Finally, in 2008 there were two, and in 2009 six, mut'ah claims.

The Divorce Survey also assessed the claiming behaviour of women during the divorce process. In the Divorce Survey 19 of the 87 respondents that had divorced at the Islamic court answered that they had claimed spousal divorce rights. Sixteen of the 19 claims made by the respondents were endorsed by the court, although only five entirely and 11 not entirely. The survey thus indicates a much higher percentage (22 per cent) of women claiming spousal post-divorce rights than appears from the analysis of the 2008 and 2009 court registers (respectively, 3.3 and 3.1 per cent). It can be an indication that in the past it was more common to claim spousal post-divorce rights. The age of the respondents in the Divorce Survey varied from 18 years to 72 (median age 33.5 years) and they were not necessarily divorced recently. However, this explanation is unsatisfactory.

The main explanation for the large discrepancy between the number of formally registered claims and the number of claims that the respondents had stated they had made can be largely explained by the tendency of judges to settle disputes informally during the divorce process. As I have observed in the courtroom on numerous occasions, informal settlements are not only reached during the (since the Marriage Law of 1974) mandatory mediation session, but also at every other stage of the divorce process. Such agreements between the parties are not registered in the court files, but often have been reached after the involvement of a judge. Therefore, it is likely that many of the respondents had made a claim during a divorce hearing at the Islamic court which was informally negotiated by the judge and which led to an agreement between the two

parties, but which was not formally part of the court judgment and not registered in the register books.

The Divorce Survey also assessed the reasons why respondents had not claimed their spousal post-divorce rights. Forty-six respondents had not claimed spousal rights and 35 of them gave a reason for this. The reasons for non-claiming can be divided into five categories. The first category is 'no need for support'. Nineteen respondents gave an answer that can be put into that category. Seven answers can be put into the category 'I did not want to delay the divorce process'. Four answers can be categorised as 'I did not want to go through the trouble'. Four respondents gave as a reason 'the claim would not have been endorsed'. Finally, in the category 'others', one of the respondents was in absentia during the divorce process at the court.

A respondent whom I interviewed as part of the qualitative part of the research provided insight into why she did not claim any post-divorce rights. According to her, one of the clerks (*panitera*) who had assisted her during the process had dissuaded her from claiming any post-divorce rights:

> There was a woman there, a clerk, she said it would be [a] long [process], since it had to be arranged first with the husband, [to know] whether he approved [to the claim] or not. We would have to meet each other first to mediate how much [support] I would want. If we would differ then it will become cumbersome. If there is no point of agreement, he wants 300 and I want 500, the process will take much longer. It would constantly have to be dealt with, [and I would have to go] back and forth, back and forth [to the court].

4.2 Child Support

The second post-divorce right I will deal with here is child support (*nafkah anak*). In Indonesia, the father remains legally responsible for the maintenance of his legal children, no matter who has custody over them. Women can make child support claims in divorce cases filed by themselves or their husbands.

In 2008, seven women, or 1.6 per cent of the total, claimed child support. In 2009, the numbers are slightly lower, six child support claims or 1.3 per cent. One must realise that those percentages are based on the total number of couples that were divorced at the Islamic court of Bulukumba. Of course, not all of them had children. Still, I think the numbers will give a good indication of the number of women who make child support claims, since in Indonesia it is normal to have children

shortly after marriage, usually within two years after marriage.[35] The percentages of 1.6 in 2008 and 1.3 in 2009 do not reflect actual numbers, but rather indicate that few women make formal child support claims at the Islamic court.

The Divorce Survey reveals much higher numbers of women who claim child support rights. Twenty-three of the 64 respondents who had addressed the Islamic court to divorce and had children answered that they had claimed child support from the father. According to 21 of the respondents, their claims had been endorsed by the court, although in 12 cases only partly. The large discrepancy between formally registered claims and claims that the respondents in the survey had believed they had made can be explained along the same lines as the discrepancy above regarding spousal post-divorce rights claims. Judges prefer to settle disputes informally during the divorce process and strive for an agreement between the parties, since they hope that such agreements will be better implemented. Those agreements are not formalised into court orders and are not part of the formal judgment of the court.

In the Divorce Survey, 33 respondents gave a reason for their non-claiming behaviour. Eight respondents gave an answer that can be categorised as 'no need for support'. Four respondents thought that the claim 'would not be endorsed'. Four respondents 'did not want to go through the trouble'. Three respondents 'did not want to delay the process'. Falling into the category 'others', three respondents did not make a child support claim because the husband had custody of the children and one was in absentia during the divorce process.

The examples above indicate that the advice and interventions of actors within the Islamic court play an important role in the claiming behaviour of women with regard to post-divorce rights. The Islamic court personnel have a preference for informal agreements, and push women's claims outside the realm of the court. Even when the claim is formally made in the court, the judge will attempt to negotiate an agreement with both parties.

4.3 Communal Marital Property

The third post-divorce right I have assessed is communal marital property (*harta bersama*). In Bulukumba the Islamic court registered seven harta bersama claims in 2008 and nine in 2009. This denotes a percentage of 1.6 per cent in 2008 and two per cent in 2009. All but one of those harta

35 Minja Kim Choe, Shyam Thapa, and Sulistinah Irawati Achmad, *Early marriage and childbearing in Indonesia and Nepal* (Honolulu, HI: East-West Center, 2001).

bersama claims are included in the divorce action itself, rather than filed as a separate action after the divorce has come into effect.

The Supreme Court has recently attempted to encourage people who want to claim harta bersama to start an action after the divorce has been recognised. It issued an instruction in 2010 (Petunjuk Teknis, Juknis) in which the Islamic courts were requested to convince claimants to reach an agreement during the mediation stage or make a separate claim after divorce. Harta bersama claims potentially postpone the divorce itself when they become part of the divorce action since the communal property often still has to be established by the court in the field. Moreover, when a relatively high amount of property is at stake, the chance of appeal increases and consequently also of a postponed divorce. Whether the interventions of the court personnel are successful remains to be seen. A separate action after the divorce means that one has to pay the court fees twice. When mediation has been unsuccessful, it remains to be seen whether the parties are willing to postpone the harta bersama claim and finish the divorce suit first, before claiming their rights before court.

Outside the realm of the court, only a minority of the divorced couples in Bulukumba make informal agreements on communal property. The Divorce Survey reveals that 15 or 12.5 per cent of all 120 respondents had made an arrangement with their husband concerning marital property and 64 did not (40 respondents chose not to answer this question). Forty-six respondents provided reasons for not seeking a marital property arrangement with the husband. Nineteen respondents answered that they 'did not need the marital property'. Thirteen respondents said that 'there was no marital property'. Seven respondents gave an answer that can be categorised as 'I did not want to delay the process'. Three respondents 'did not want to go up against their ex-husband'. Four claims fell into the category 'other reasons', including a respondent's reason that her children would get her part of the marital property in the future.

The latter kind of agreement is illustrative of other cases in Bulukumba in which the rights of the spouses themselves are subordinate to the rights of the children. In the following interview with a respondent it becomes clear that judges sometimes side with the wife and encourage the husband to refrain from claiming his formal rights to half of the marital property for the sake of the children who (most commonly) reside with the mother.

Interviewer: So he turned up and then he asked for, he immediately asked for, he claimed, communal marital property?

Respondent: Yes, he asked to divide the property. But I resisted, because I have [custody of] our only child.

Interviewer: And the property, [consisted of] a house or land?
Respondent: A house.
Interviewer: This house?
Respondent: This one.
Interviewer: Oh, so he wanted to sell this house and divide the money?
Respondent: Yes, he said he wanted to divide it, he wanted to take it. But I resisted, persisted, I have our only child. And in court, eh, what is it (*bagaimana*), the judge, he said, the judge said it could not be divided because I have a child. If we would had no children, then it could have been divided. …
Interviewer: So the marital property was not divided at all?
Respondent: It was not divided.

With this quotation I intend to illustrate two things: firstly, the Islamic court considers the living conditions of children in its judgments, in this case whether they have a place to live; secondly, women with children are more inclined to defend property rights. Property seems to be considered more essential for the future of their children than child support arrangements.

4.4 Bride Price (Mahar)

The fourth and last post-divorce right I have looked at is the bride price or mahar. Mahar is the bride price paid by the groom to the bride. The mahar remains the property of the wife after divorce, at least if the marriage is 'consummated'. When this is not the case because of the unwillingness of the wife to sleep with her husband, half of the mahar must be returned. In 2008, 11 women, or those in 2.6 per cent of all divorce cases, filed a mahar claim. In 2009, 9 or 2 per cent of the women involved in a divorce case made a mahar claim.

A special feature of Bulukumba and South Sulawesi in general is that the bride price is often given in non-movable goods (e.g. a plot of land, standing trees on a plot of leased land, a house) rather than in money or gold. This makes the mahar cases in South Sulawesi more complicated. The goods will represent a customary value in 'Real', this referring to the currency of Saudi Arabia. The amount is based on the status of the bride and is thus traditionally linked with the amount of noble blood the wife possesses.[36] Women often insist that the mahar is handed over to them, since they need it as mahar for the future marriage of their

36 Chabot, *Kinship, status and gender in South Celebes*, 1996.

sons. Sometimes the former spouses make an arrangement in which the father keeps the land in his possession but promises to use it as their sons' mahar in the future.

4.5 Enforceability of Court Orders

If you look at the execution and enforceability of court orders, a mixed picture occurs. With regard to spousal support for the three-month waiting period, implementation is facilitated by the Islamic court, since husbands are pushed by the court to pay in advance the entire sum established in the court order, after which the husband may utter the talak before the court.

In contrast, child support implementation depends on the ex-husband's goodwill. Many women complained that their ex-husbands did not provide the support established in the court order. Although there is a legal mechanism for collecting debts in the law, the Islamic court of Bulukumba has never (yet) enforced a child support court order through that procedure.

Somewhere in the middle is the enforcement of court orders concerning marital property, which can be effective but is relatively expensive. According to estimations by the chief clerk, enforcement requires about 1 million rupiah in court fees and, depending on the expected resistance, additional payments (to police, sometimes military) of at least 4 million rupiah. The current chief clerk had a good reputation in getting court orders enforced. According to him, the network of his father, who was a high ranking officer in the armed forces, helped him to obtain information about the expected resistance. Moreover, he combines a tough appearance (he is a tall, strong man, from the infamous Jeneponto area), with an understanding for the context.

For instance, he told me that in many cases the persons involved would respond with violence to the threat of force by the police. Therefore, he said that he tends to give people a last chance, although there is no legal necessity to do so. Together with someone from the police he will visit the location in person and try to convince the person who is ordered to hand over the property concerned to do so voluntarily. He said that many people respond to the last chance to avoid the shame of a forced foreclosure. In another case he postponed the enforcement and gave the person the chance to harvest the rice first. According to the chief clerk, such a humane approach greatly facilitates enforcement of court orders.

4.6 Satisfaction Concerning Support

In the Divorce Survey I asked whether the women concerned were satisfied with the contribution of the father of their children in terms of child or spousal support. A mere 8.5 per cent of the respondents were satisfied with the father's contribution and 40 per cent were dissatisfied. The image of post-divorce rights presented above already indicated that child support is unenforceable and apparently many fathers do not pay enough support in the eyes of their ex-wives.

Nonetheless, the background of this dissatisfaction appears to be more of a moral issue than an economic necessity: 72 per cent of the respondents stated that their economic situation had actually improved after the divorce. One of the main reasons for this improvement may be that divorced women and their children generally return to their parents' care. If no swift remarriage takes place, divorced women may be encouraged to leave the area and find employment in the factories of Makassar or are recruited to work abroad whilst leaving the children in the care of the grandparents. The working opportunities for divorced women may contribute to the improvement of the economic situation of the women concerned (and regional economic development), even for those women who – if they had the choice – would have preferred to continue playing the traditional role of housewife.

5 Conclusion

The Sharia byelaws in Bulukumba have a historical component as they echo the aspirations of the Darul Islam movement in South Sulawesi (1951–1965). In 2011, the Laskar Jundullah had left the streets (although with the foundation of a local branch of the FPI this might have changed), but the Sharia byelaws were still very much upheld in government offices and – as the veiling incident has shown – in the Islamic court. With regard to family law issues, the Sharia byelaws seem not to have any negative influence on women's rights. The Islamic court of Bulukumba is effective in making divorce for women accessible since almost all women who petition for a divorce at the Islamic court are successful. A majority of the women in Bulukumba divorce formally, through a court decision. The status of women in informal divorces is considered stained and they may have difficulties remarrying, whereas remarriage for formally divorced women is much more accessible.

The lion's share of divorces – about 80 per cent – are petitioned by the wife. The reasons for divorce that women mentioned in the Divorce

Survey are: a lack of harmony (76.7 per cent), adulterous behaviour or informal polygamy (31.7 per cent), domestic violence (8.3 per cent), economic reasons (8.3 per cent), pressure by the family (8.3 per cent) and no offspring (7.5 per cent). The cultural context of a strong bilineal kinship system facilitates divorce as well. A good husband is expected to be ambitious and to do all he can to improve the family's status and position.[37] However, if the husband does not act as he is supposed to, the wife will stand up to him, often backed or pressured by her kin, and unless the situation improves, she will eventually leave him.

With regard to the use of judicial discretion, in cases where the children reside with the mother, it appears that judges may pressurise husbands into agreements which allocate a larger portion of marital property to the wife. However, the use of discretion can also have negative consequences for the rights of women. First of all, women are discouraged by judges from claiming their rights and encouraged to come to an informal agreement which often remains unenforceable through the court system. Secondly, the amount of child and spousal support in the court order is often lower than what was claimed as the judge will tend to follow the husband's counterclaim, in order to have more chance of the support being paid by him.

A major obstacle in achieving post-divorce rights is that, generally speaking, enforcement of court orders is problematic. Enforcement of spousal support is well-facilitated, but only when it concerns the three-month waiting period. Child support orders are considered unenforceable by the judges and, at the time of writing, no single case has (yet) been enforced by the Islamic court of Bulukumba. Finally, enforcement of property cases is relatively expensive due to a mix of formal court fees and informal payments to police and others. The execution of child support court orders is problematic and most women are dissatisfied with the father's support for their children after divorce.

Still, women with children can cope economically after a divorce as they are supported by their kin, mostly their parents, until they remarry. Additionally, many divorced women who did not work during their marriage, leave the area to work (abroad) for a period of time, leaving the children in their grandparents' care in order to contribute to the household income. Hence, women in Bulukumba cope with the financial consequences of a divorce because they have access to the safety net of their kin and access to labour – much less so because of access to the Islamic court. Nonetheless, to most of those women access to the

37 Chabot, *Kinship, status and gender in South Celebes*, 1996.

Islamic court still is essential as a formal divorce is a social necessity if one intends to remarry in the future and start a new family. Thus, one may conclude that for most women in Bulukumba access to the Islamic court is not so much a means to access their post-divorce rights but much more an essential condition to have access to a potential future remarriage.

6 Women in Local Politics

The Byelaw on Prostitution in Bantul[1]

Muhammad Latif Fauzi

1 Introduction

Since the collapse of the New Order in 1998, the Indonesian government has promoted regional autonomy and decentralisation. This has resulted in an increasing number of regional regulations. Such regulations do not limit their reference to national laws, but also draw from religious doctrines and customs (*adat*). Several Muslim-dominated districts and cities, such as Bukittinggi, Bulukumba, Cianjur, and Tasikmalaya, have given substance to their Islamic political aspirations through the ratification of so-called Sharia regulations.[2] Some regulations are linked to religious skills and religious symbolism, such as the obligation to be able to read the Qur'an[3] and the wearing of Muslim clothing including the *jilbab* (headscarf), while most are related to public morality issues, such as prostitution and the consumption of alcoholic beverages.[4]

With regard to public morality, in 2007 in Bantul, a district in the Yogyakarta Special Region (Daerah Istimewa Yogyakarta, DIY), a byelaw was issued attaching a penalty to enticing either in public places or locations visible from public places others into acts of prostitution. The regulation was accepted by the Regional House of Representatives (Dewan Perwakilan Rakyat Daerah, DPRD) of Bantul on 12 April 2007

1 An earlier version appeared in *Al-Jami'ah, Journal of Islamic Studies*, Vol. 50, No. 1, 2012.

2 Robin Bush, 'Regional Sharia Regulations in Indonesia: Anomaly or Symptom?', in Greg Fealy and Sally White (eds.), *Expressing Islam: Religious Life and Politics in Indonesia* (Singapore: Institute of Southeast Asian Studies, 2008), 174–191.

3 To give an exampe, Solok Regulation No. 10/2001on the obligation on reading the Qur'an makes it obligatory for elementary, junior, and senior students and grooms and brides to be able to read the Qur'an. The regent or official authorities issue certicates to validate their ability.

4 Arskal Salim, 'Muslim Politics in Indonesia's Democratisation', in R. McLeod and A. MacIntyre (eds.), *Indonesia: Democracy and the Promise of Good Governance* (Singapore: ISEAS, 2007), 126.

and subsequently validated on 1 May 2007. It was registered as Regional Regulation (Peraturan Daerah) No. 5/2007, henceforth referred to as the regulation. The regulation was presented as an instrument which would help make Bantul a district where its people could enjoy democracy, religiosity and welfare. It was also said to be an effort (*ikhtiar*) to clean up vice (*maksiat*) and to reflect the government's responsibility to attend to social order, relating to women in particular.

Bantul is located in the southern part of the Yogyakarta region. It has a population of 831,000. Many of the people earn a living as rice farmers, craftsmen, factory labourers, civil servants or merchants and most live in lowland areas and in villages committed to performing religious practices associated with 'traditional Islam'. The regional government stresses that it aims to apply a religious vision for the development of the region, something, it claims, that cannot be found in other regions in Yogyakarta. It expects the people to make their everyday life religious.[5]

Bantul is said to be considered a self-proclaimed social and political asset by Idham Samawi who served twice as its regent, from 1999 to 2004 and from 2004 to 2009. He was born into a noble religious family, Samawi. Haji Samawi, his father, was one of the founders of *Kedaulatan Rakyat*, the first newspaper in Yogyakarta. The nobility of Idham Samawi's family fortified his socio-political authority in society. Later, his wife, Sri Suryawidati, succeeded him as regent. Though her competence to be a good regent was doubted by many, she won the 2009 election. Her term in office has maintained the dynastic power of the family.[6]

The rise of Idham Samawi as the regent of Bantul occurred at a time when the Indonesian government introduced a new approach to national development through decentralisation and regional autonomy. The concept of decentralisation was embodied in Law 22/1999 on Local Government and Law 25/1999 on the Financial Balance between the Central and Regional Government. Both laws give provinces, districts and municipalities full autonomy to govern and administer their region in the interests of local people within the limits set by national legislation.[7]

5 See the profile of the Bantul district its website, www.bantulkab.go.id (accessed 16 June 2011).

6 'Rezim Keluarga di Pilkada', *Kompas*, 19 April 2010. The result of the regent elections on 23 May 2009 was as follows: (1) Sri Suryawidati-Sumarno: 67.77 per cent, (2) Sukardiyono-Darmawan Manaf: 28.26 per cent, and (3) Kardono-Ibnu Kadarmanto 3.97 per cent.

7 A number of laws, including Law 22/1999 on *Otonomi Daerah* (Regional Autonomy) which was afterwards renewed by Law 32/2004 on *Pemerintah Daerah* (Regional Government) and Law 10/2004 on *Pembentukan Peraturan*

In the spirit of decentralisation, during the Samawi's period, a number of local regulations concerning social order were issued, one of which was a response to prostitution in southern coastal areas of Bantul.

Right-wing Muslim organisations call for the enforcement of this regulation, stressing that prostitution is degrading to women who are forced into it, due to either economic discrimination or sexual exploitation. Opposition to the byelaw has been voiced by a number of activists. According to them, the regulation was drafted in a non-transparent way, did not include public participation and was merely aimed at wooing Muslim voters. The regulation has legal weaknesses and violates the principles of human rights and justice. Yet another argument, mainly put forward by gender activists, is that prostitution is an acceptable profession, not disreputable.

This research examines public debates on the subject and addresses the position of women in its legal implementation. In so doing, in the first part of this chapter, I describe how the regulation came into being and briefly deal with the history of Parangkusumo, the centre of prostitution, and the present state of affairs. In the next section, I look at diverse understandings of prostitution and the debates between the political parties in the Bantul Parliament on the bill. In the last part, I present emerging voices, mainly from NGOs on gender, which resist the implementation of such a byelaw on the ground that it supports the criminalisation of women.

2 From the Cepuri Pilgrim to Sexual Favours

In 1852, the colonial government recognised prostitution in an act intended 'to avoid harmful consequences resulting from prostitution'. Sex workers should operate in brothels to make it easier for the police to control them. Later, this provision proved to be problematic as the Act was understood to have legitimised brothels as commercial institutions. In 1858, another law was issued to clarify the 1852 Act. Brothels were described as places 'to limit the harmful effects' of prostitution by regularly having medical consultation.[8]

The later growth of the plantation and sugar industries in East and Central Java, the opening up of Java to private capital, and the significant

Perundang-undangan (Drafting of Laws and Regulations), have served as the legal basis for regional authorities to promulgate local regulations.

8 Gavin W. Jones, Endang Sulistyaningsih, and Terence H. Hull, 'Prostitution in Indonesia', a working paper in demography at the Australian National University, 1995.

Sanctuary of Cepuri, 28 km south from Yogyakarta

migration of male workers to and across Java created a huge demand for the services of prostitutes. The building of roads and railways had a similar effect. Cities along rail lines had to cope with an increasing number of rail passengers, and thus also with a growing demand for rooms and lodging, and sexual services. In Yogyakarta, the prostitution centre was initially located in the area of Pasar Kembang, a few metres from the Tugu railway station.[9] In the 1990s pimps brought sex workers to other places, mainly to the southern coastal areas such as Parangbolong and Parangkusumo.

In addition to the beauty of its beach, Parangkusumo, located 28 km south of Yogyakarta, is well known for a pair of rocks surrounded by walls, called Cepuri. Villagers believe the rocks to be sacred and mystical, the place where Kanjeng Panembahan Senopati, the first King of the Mataram Kingdom, was said to have meditated. Many people believe that it was here that the King met with Kanjeng Ratu Kidul, the Queen of the Southern Sea of Java (Indian Ocean), for the first time. Cepuri is thus considered an important place for spiritual and cultural events. Visitors cannot freely enter and leave the complex and must be accompanied by a spiritual guardian (*juru kunci*). Sandals have to be taken off before entering. Visitors are obliged to be silent inside the site. Rituals in Cepuri can be performed on all days and at any time. Nevertheless, Tuesday Kliwon

9 Ibid.

and Friday Kliwon[10] are particularly believed to be special moments to perform a pilgrimage. In addition to the pilgrimage, the offering to Kanjeng Ratu Kidul (*labuhan*), a traditional ceremony of letting offerings and flowers drift into the Southern Sea, is considered a very important ritual.[11] The choice of those two nights relates to a Javanese tradition which regards them as holy and sacred.[12]

Modernisation and economic development have, however, altered the adherence to these activities. Since the 1980s, economic activities in Parangkusumo have come to dominate these ritual practices. Traders offer goods, such as clothes, traditional medicine and massage services. People from Yogyakarta and neighbouring areas come there either to shop or to have a pleasant evening. The rise of economic activities, mainly on the regular ritual days, as well as the increasing number of houses in Parangkusumo, amplified the variety of products and services promoted. The commercialisation of sex has been one eventual consequence. According to RP Suraksotarwono, the spiritual guardian of Parangkusumo, the first sex workers came from Pasar Kembang. Some villagers welcomed this considerable business development as it has drawn a huge number of costumers from elsewhere.[13]

This success story led to a dramatic increase in prostitution and attracted hundreds of sex workers from other cities. Sex workers, who used to be called women lacking morals (*Wanita Tuna Susila*, WTS) and now are commonly referred to as commercial sex workers (*Pekerja Seks Komersial*, PSK), head to Parangkusumo regularly to seek customers. Only a small number of them are from Yogyakarta; most of them come from districts in Central Java, such as Demak, Magelang, Pati, Purwodadi, Solo and Sragen. Most are 'freelancers' and not attached to pimps. However, the sex workers have to rent rooms from pimps who earn 10,000 rupiah for each use.

Initially, sex workers came to Parangkusumo only on Tuesday Kliwon and Friday Kliwon nights. Later on, considering the income to be earned,

10 Kliwon is one of the five Javanese days.

11 Maharsi, 'Varian Keagamaan Masyarakat Pesisir Pantai Selatan (Studi Kasus Desa Parangtritis, Kretek, Bantul, DIY)', *Jurnal Penelitian Agama*, 13, 3, September–December 2004.

12 This belief is close to a tradition that a Javanese who performs a 40-day fast usually ends it on Friday Kliwon or Tuesday Kliwon. However, this tradition is gradually changing and locals have started to replace the 40 days with a three-day fast on Wednesday Wage, Thursday Pon, and Friday Kliwon.

13 Interview with RP Suraksotarwono, the spiritual guardian of Cepuri in Parangkusumo, August 2011.

they preferred to stay permanently rather than commute. Other residents also benefit from this situation in many ways. The most obvious places where such business is conducted are brothel complexes, hotels, massage parlours, and karaoke rooms. In addition, many villagers have opened shops selling food, cigarettes and daily provisions. Thus, the relationship between the sex industry and other economic activities in general cannot be ignored.[14]

The more dominant connotation of prostitution somehow has displaced the meaning of ritual. In daily parlance, sex is also called ritual. Some people in Parangkusumo have even named both Tuesday Kliwon and Friday Kliwon *hari ibu* (Mother's Day) as many sex workers are between 35 and 40 years old (and so the age of a mother).

The tariff for purchasing the services of a prostitute varies depending on how capable a customer is at haggling. In general, young sex workers would set the tariff at between 70,000 and 150,000 rupiah, while older sex workers tend not to set a fixed price. Customers usually pay between 25,000 and 35,000 rupiah. The more beautiful a prostitute looks, the higher the price. A former prostitute told me that when she was a sex worker it was common for her to have 20 customers a night.[15]

Anik, a former lady pimp, clarified that her shop might sell five packages, each containing 144 items, of condoms a month.[16] On the ritual nights, through renting rooms, the pimps could earn more than 1,000,000 rupiah a night. In addition, owners of karaoke rooms also made quite reasonable incomes. The price for renting a karaoke room was 25,000–50,000 rupiah per hour. The owner could provide a karaoke guide (*pemandu karaoke*) to join, when demanded. The owner received no money from the karaoke guide. Usually a customer had to pay 50,000–75,000 rupiah and gave her the money direct. The karaoke guide offered the customer a karaoke 'plus'.[17]For this service, the customer had to pay extra money ranging from 100,000 to 200,000 rupiah. Despite having no income from the karaoke guide, the owner could still benefit from selling other products, such as food and drinks, and renting out

14 Interview with Daru Waskita, journalist, in Bantul, July 2011.

15 Interview with Yani, sex worker, in Parangkusumo, July 2011.

16 Interview with Anik who says that she looks after sex workers. She used to be a prostitute, then a lady pimp, but now limits her business to running a karaoke house, July 2011.

17 'Plus', an Indonesian slang word, often referring to additional sexual services. If people read *pijat plus* or massage plus, they will understand that it is a massage with sexual favours.

Sacred rocks inside sanctuary of Cepuri

rooms for 'plus' services.[18] Besides the link between sex workers, pimps and karaoke owners, others benefited from this connection indirectly. On the ritual days, bus drivers saw an increase in earnings due to an increase in passengers, including pilgrims, sex workers, visitors and traders.

During Ramadan, Cepuri remains open. Parangkusumo does become quieter however, as the religious atmosphere does still prevail. The Darus Salam mosque, inside the complex of Cepuri, holds a daily *iftar* (breaking of the fast). A religious gathering (*pengajian*) targeting a larger audience is carried out weekly. All villagers, including the owners of brothels, are expected to donate food for *takjil* (fast-breaking meal, commonly called *iftar*). Mothers, teenagers and children gather to wait for the coming of the Maghrib prayer. During that time, guided by the imam, they recite Islamic chanting (*dhikr*) and the prayer commonly recited for the dead. Rituals within the mosque represent the traditional teachings of Islam, which is institutionally affiliated with the biggest Muslim organisation, Nahdlatul Ulama.[19] Prostitution is not strongly evident during Ramadan evenings.

18 Interview with Budi, the owner of Hesty Karaoke in Parangkusumo, July 2011.

19 Interview with Ahmad, the imam of the Darus Salam mosque on 11 August 2011. He has been an imam for 17 years. He admitted that his dakwah activity in the

3 The Making of a Prostitution Byelaw

The discussion on the prostitution regulation commenced in 2002, though it took until 2007 before the legislation was officially issued. On 15 March 2007 the regent submitted and read an Introductory Note (*Nota Pengantar*), which included a bill on the ban on prostitution, to the plenary meeting of the Regional House of Representatives of Bantul. This bill, drafted by the sub-division on law, claimed to rely upon social aspirations. It is said to have been drafted after three meetings were held in January 2007 involving state officials, social and religious leaders, activists and ordinary people. They came to the single conclusion that prostitution was a serious problem in terms of religious and social norms.

During the two days after this meeting, the parties represented in the Regional House of Representatives[20] prepared for a general debate on the regent's Introductory Note. On 20 March 2007 the plenary meeting heard, for the second time, the opinion of the parties. The majority of them asserted the necessity of the regulation and recommended the establishment of the special commission to discuss and examine the bill.[21] The setting up of the special commission is a compulsory step in the legislation process and offers the only opportunity for members of the Regional House of Representatives to bargain their political interests. The final report represents the voices of all factions. It also plays a decisive role in determining the outlook of a bill. The head of the commission, Edy Susila, represented an Islamic party, the PPP, while the secretary, Jupriyanto, was from another Islamic party, the PKS.[22] At the same time, the regent formed an executive team whose main task it was to ensure that the draft was accepted.

The bill was eventually accepted by the Regional House of Representatives of Bantul on 12 April 2007, registered as regulation No. 5/2007 and validated on 1 May 2007. Health, public safety, legal instruments and

area of Parangkusumo was not hampered by the prostitution. He tended to call sex workers *mbak-mbak nakal* (naughty women) as he argued that the naughty women meet men's need for sex while the good women meet men's need for building a family.

20 PDI-P, PAN, PKB, PKS, Golkar, and Kesatuan Baru (a coalition of Partai Demokrat, PPP and Partai Karya Peduli Bangsa).

21 Taken from the Official Proceeding of the 15th plenary meeting of the DPRD Bantul in 2007.

22 Keputusan DPRD Bantul No. 08/KEP/DPRD/2007 on Pembentukan Panitia Khusus (the DPRD Bantul's Decree on the Establishment of a Special Committee).

social harmony, violation of God's law, immorality and *akhlak karimah* (good behaviour) were mentioned as reasons for it being issued. In the section on punishment, it is stated that anyone acting in violation of this byelaw can be sentenced to a maximum of three months' imprisonment or a fine of a maximum of 10,000,000 rupiah. As mentioned before, the regulation was intended to make possible the arrest not only of sex workers but, more importantly, of pimps and brothel owners. Many people doubt however that the regulation will be fully implemented as, in many cases, pimps appear to be immune to the law because they usually behave as strongmen and have social power in society. It is commonly known that they have a close relationship with key members of the local administration, including the law apparatus, which can protect them from the power of the law. The law does, however, affect those at the lower level, predominantly sex workers. In prostitution actions in the Bantul court defendants are mostly sex workers, not the pimps or the brothel owners.

The byelaw has led to criticism not only by sex workers, but also by a number of other groups. Negative reactions were voiced by communities whose financial resources were affected by the implementation of the regulation. Community and women's groups also have strongly criticised the regulation, saying the ordinance is vague and dangerously ambiguous, leaving all women vulnerable to accusations of prostitution. In the plenary session of the Bantul Regional House of Representatives on discussing the regional budget of 2008, all political parties reemphasised their support for enforcement of the regulation aimed at preserving good religious conduct.

While the position of prostitution in society was problematic, this did not apply to the remarkable speed of the legislation process, which took only 20 days. It demonstrates that the Bantul authorities faced few complexities, both sociological and political, in making this law possible. Muslim organisations, such as Nahdlatul Ulama, Muhammadiyah and the MUI were invited to write an official letter expressing their support. More significantly, every single party, either Islamic or secular, supported the regulation.

The fact that all parties shared a religious outlook in their opinions about prostitution was undeniable. They spoke the same language, i.e. preserving good behaviour and saving a generation, and a few of them placed prostitution in a wider social economic context, looking at issues such as poverty and job opportunities. A slightly different reason for supporting the bill was given by the PKB. It argued that prostitution has to do with the free market mechanism of supply and demand. Finding a solution is about how to sever the ties between the seller

(prostitute) and the customer. Enforcing the law only with respect to the former would not solve the problem.[23]

This case shows that differentiating between religious and secular parties is no longer relevant. This can be explained by looking at the balance of parties when the bill was accepted which changed by the decline of one secular party, the PDI-P and the rise of another one, the PD. Of the 45 seats in the Bantul legislature, the PD had one seat (2.2 per cent) in 2004 and five in 2009, a significant increase. On the other hand, the PDI-P won 16 seats (35.5 per cent) in 2004 but dramatically lost five seats (24.4 per cent) in 2009. Another important party, the Islamic PKS had five seats (11 per cent) both in 2004 and 2009 (see Appendix, Table 1).[24]

In view of this it is safe to argue that the transformation of the so-called *politik aliran* (aliran politics) after the fall of Suharto still continues.[25] This can be seen from the fact that the current political situation in some local areas in Indonesia presents a picture of people's loose attachment to political parties, particularly in terms of declining membership figures and increasing numbers of swing voters.[26] This phenomenon refutes the premise that politics has become polarised between Islamic and non-Islamic parties. Moreover, the contradiction between urban-based parties and rural-based parties has become blurred. Both religious and non-religious streams are following the same direction. They tend to neglect their political ideologies, while rather pragmatic interests appear to drive their agendas.

The vast majority of Muslims in Bantul, about 95 per cent of the whole population, mostly living in rural areas, are a captive political market. Both secular and Islamic parties have to compete over their influence in that domain. The PDI-P, which usually avoids exploiting religious issues or speaking out in favour of the introduction of Sharia-based byelaws such as those relating to pornography and the wearing of a *hijab* by women, acts differently at the regional level. This observation leads me to conclude that presenting an Islamic image, in fact, is used by parties as a strategy to win over Muslim voters. It is, hence, relevant to consider Ufen's note on the dynamics of politik aliran in the *Reformasi* era. He

23 Pendapat Akhir Fraksi PKB atas Enam Raperda Kabupaten Bantul (The Final Opinion of the PKB's faction on Six Bills of Bantul), 12 April 2007.

24 Based on the data of both the Central and Bantul Commission of General Election.

25 R. William Liddle, 'New Patterns of Islamic Politics in Democratic Indonesia', *Asia Program Special Report* (Woodrow Wilson Center International Center for Scholars), no. 110, April 2003, pp. 4–13.

26 Andreas Ufen, 'The Evolution of Cleavages in the Indonesian Party System', Working Paper at the German Institute of Global and Area Studies, April 2008.

said 'parties are not "organic" aggregations of social interests, but are characterised by all kinds of deficiencies. Most of them are riddled with internal conflicts, their financing is often shady, their platforms are vague and party elites tend to monopolies decision making.'[27]

4 Contestation over the Meaning of Prostitution

When defining prostitution, the fact that a prostitute receives money for her services is usually an essential element. However, simultaneously, in addition to being labelled immoral, sex workers are generally not well paid, though, according to a report by *The Economist*, an exceptional few of them earn a lot of money.[28] Therefore, there are many ways to perceive prostitution. Edlund and Korn, referring to the 1969 edition of the *Random House Dictionary of the English Language*, defined prostitution as an 'act or practice of engaging in sexual intercourse for money'.[29] Another definition rejects the point of selling one's body to distinguish between prostitutes and common women. As Ellis has argued, a prostitute cannot simply be a woman who sells her body because that is also done by women who marry in order to secure a home and a livelihood.[30] Unable to avoid a simplification, Edlund and Korn argue that a prostitute sells non-reproductive sex, 'commercial sex', whereas a wife sells reproductive sex.[31]

Likewise, in the discussions in the regional Parliament the most controversial debate had been about what prostitution is and what definition should be used. Some made a categorisation dependent upon the presence of money. The regulation does not. It states that indecent (immoral) actions with or without financial compensation are regarded as prostitution. It seems that the regulation ignores compound definitions of prostitution. It describes prostitution as any action, by a person or an institution, enticing, facilitating, organising and committing indecent acts. Because of this definition, the grey area between 'approval',

27 Andreas Ufen, 'From Aliran to Dealignment: Political Parties in post-Suharto Indonesia', *South East Asia Research*, 16, 1, 6.

28 *The Economist* in February 1998 reported that an Arabic prostitute could make 2,000 US dollars a night while a Latvian sex worker was reported to get 5,000 US dollars a month, 20 times the average salary.

29 Lena Edlund and Evelyn Korn, 'A Theory of Prostitution', *Journal of Political Economy*, 110, 1, 2002, 183–184.

30 Havelock Ellis, *Studies in the Psychology of Sex* (New York: Random House, 1936), 225.

31 Edlund and Korn, 'A Theory of Prostitution', 184.

'acknowledgment', and 'prohibition' of prostitution, which existed in the past and had been clear to the government, sex workers, brothels and the public, has disappeared.

Though insisting it was in favour of that position from early on, the PDI-P was somehow not convinced that prohibition was the best choice. That is why it held an SMS poll on 10 and 11 April 2011 on the *Persatuan* radio station, showing that the PDI-P understood the importance of the mechanism of public participation in the legislative process. Ignoring the fact that some groups were reluctant to have any form of interference at all, the public was offered two options: regulation or prohibition. There was no clear definition of what constituted the difference between the two. In total 224 messages were received, of which 45 (20.1 per cent) were in favour of regulation, while the rest, 79.9 per cent, preferred prohibition.[32] This result made the PDI-P decide to approve of the draft; coming out in favour of prohibition was a reasonable decision to take.[33]

Health was another factor brought into play. The Golkar party, referring to the result of the survey by the Health Office of Bantul, expressed strong support for the byelaw. A survey of 285 blood samples in 2004 found seven people who had HIV (Human Immunodeficiency Virus), the one of 2005 (with a sample of 422), six. A survey of 378 blood samples held in 2006 found 12 people with HIV, that of 2007 with a wider blood sampling of 403 people, four. The decrease in people with HIV in 2007 was claimed to be one of the positive effects of enforcing the regulation.[34]

However, religious symbolism served as the main reason for the rejection of prostitution. Islamic parties explicitly cited a number of verses from the Qur'an. The New Unity Faction (Fraksi Kesatuan Baru) including the PPP related prostitution to God's prohibition on jollification and adultery. With respect to the first, verse 64 of the chapter *al-'Ankabut* (Q. 29; the Spider) was cited, cautioning human beings against jollification and pleasures in this world and reminding them of the endless happiness in the hereafter; with respect to the second, they referred to verse 32 of the chapter *al-Isra'* (Q. 17; the Night Journey or the Children of Israel), which explicitly forbids committing adultery.[35]

32 The Final Opinion of the PDI Perjuangan Faction on the Six Bills of Bantul, 12 April 2007.

33 Interview with Tustiyani, the head of DPRD Bantul, July 2011.

34 The Final Opinion of the Golkar Party Faction on the Six Bills of Bantul, 12 April 2007.

35 The Final Opinion of the Fraksi Partai Golkar, the Fraksi Kesatuan Baru, and the Fraksi Partai Keadilan Sejahtera.

The PKS was in favor of banning prostitution but harshly criticised the regulation as it did not define morality in terms of religious norms. It also regretted the incompleteness of this byelaw as it limited the scope of prostitution and did not include cheating on one's spouse (*selingkuh*) as an act of prostitution. Machmudi noted that for the PKS promoting Sharia on the national level remains important. The party prefers to pursue the implementation of Sharia in a bottom-up approach, through educating Muslims to understand the essence of Sharia. In this way, they practise such teachings in their daily lives, and only when people accept Islamic law will they call for its implementation by the government.[36]

5 Prostitution and Criminalisation of Women

Prostitution, in relation to the Sharia-based local regulations, has become a heatedly debated topic in recent years. Public attention has focused on the situation of female sex workers, the influence of prostitution on the young generation, the rise of economic activities surrounding prostitution centres and the adequacy of regulations. Much of the debate has simply been polarised between the so-called liberals and conservatives. The first demand that prostitution be decriminalised, normalised and humanised, while the second argue that prostitution should be eliminated. Social political interests play a major role for the government in determining its position between the two poles.

Kantola and Squires[37] categorised discourses responding to political debates on prostitution into four types: public nuisance, traditional morality, oppression-of-women and sex work. Public nuisance is the most dominant argument against prostitution. This discourse nevertheless remains silent on the marginalisation of street-class sex workers. Objections to sinful, shameful and evil prostitution are put by the traditional-morality model. These qualifications have been used for 100 years and are frequently mentioned whenever the topic is discussed. In the spirit of modernisation and gender-equality mainstreaming, the oppression-of-women argument does not highlight sin and vice, but the subordination of women and children.[38] The oppression model stresses

36 Yon Machmudi, *Islamising Indonesia: The Rise of Jemaah Tarbiyah and The Prosperous Justice Party* (Canberra: ANU E Press, 2008), 195.

37 Johanna Kantola and Judith Squires, 'Discourses Surrounding Prostitution Policies in the UK', in *European Journal of Women's Studies*, 11, 1, 2004.

38 Ronald Weitzer, 'Legalizing Prostitution: Morality Politics in Western Australia', *The British Journal of Criminology*, 49: 1 (2009), pp. 88–105.

the notion that prostitution is male domination of women. The model regards sex workers as victims and relates prostitution to sex trafficking problems. Those sexually exploited are often economically marginalised women and children with histories of prior physical and sexual abuse. The absence of economic alternatives has made them vulnerable to sex trafficking. The Coalition against Trafficking in Women (CATW) in the 'Who We Are' section of its website proclaims that '[w]e must take a principled position against the legalization of prostitution and discourage the demand for commercial sex without penalizing the victims. The wrong people continue to be arrested; the prostituted should be decriminalized.'[39] This model's favoured term, 'sexual slavery', is obviously opposed by the sex worker paradigm. Legalisation will institutionalise protection through workers' rights and the decriminalisation of sex workers.

I argue that the Bantul authorities were inclined to implement the traditional-morality model. It is stated in the byelaw's 'Consideration' that prostitution is an activity that disparages human dignity and violates religious tenets, the ideology of Pancasila and morality.[40] Both the legal drafters of the bill and most of the Bantul legislatives employed the oppression model to understand prostitution. In their opinion, the Bantul regulation on prostitution is aimed at protecting women from being 'sexual victims'.[41] It seems that the Bantul administration has made a generalisation about prostitutes. Enik Maslahah, a female activist of Mitra Wacana, suggested that it should make a classification of prostitutes. Prostitutes should be divided into three types, i.e. those forced into prostitution, victims of trafficking, and those offering sexual intercourse for money. Such a classification can be used as the basis for addressing the problem of prostitution. It is not right that the prohibition of prostitution is strictly viewed in terms of eradication, while efforts to prevent, handle and rehabilitate those engaged in these practices are not undertaken.[42]

It has been argued that the method chosen by the Bantul administration to abolish prostitution through the byelaw is worse than that undertaken by the Yogyakarta province in 1954 which byelaw was specifically concerned with brothels. This 1954 byelaw was aimed at eradicating

39 www.catwinternational.org/WhoWeAre (accessed 17 November 2011).

40 Bantul regulation No. 5/2007 on the Prohibition of Prostitution.

41 Christine M. Jacobsen and Dag Stenvoll, 'Muslim Women and Foreign Prostitutes: Victim Discourse, Subjectivity, and Governance', *Social Politics*, Volume 17 Number 3, (2010), pp. 274–276.

42 Enik Maslahah, 'Penurunan HIV/AIDS dan Perda', paper presented at the discussion 'Membangun Sinergisitas Gerakan HIV-AIDS, Gerakan Perempuan dan Gerakan HAM', 12 March 2008, Gedung Kepatihan Yogyakarta.

prostitution and maintaining people's health and safety. However, this regulation aimed in the first place at regulating pimps and houses used as places of prostitution, instead of arresting sex workers. The byelaw allowed the Yogyakarta administration to seal a house which was proven to be used as a brothel for three months, but it had to revoke its decision if the house was no longer used as a prostitution centre after this period. The definition of prostitution is much clearer in this law and it distinctively refers to acts of people selling their bodies and committing adultery for money.[43]

The repressive approach has been developed by the Bantul administration which is of the opinion that the existence of prostitution is a result of social changes in a capitalist society. This thought clearly appeared in the government stakeholders' opinions when asked about the reason why a woman becomes a sex worker. Female prostitutes, they argued, are women who wear sexy clothes, lead luxurious lifestyles and feel reluctant to work hard, and have lost their dignity. Prostitution is understood as a result of excessive freedom and sexual permissiveness.[44] In line with this argument, paying less attention to its causal factors, prostitution is viewed as dirty, a vice and an immoral act. In many cases, however, prostitution is a consequence of a poor family economic existence.

The regulation led to quite a few wrongful arrests following the many raids conducted by the civil police (*Satuan Polisi Pamong Praja*, Satpol PP) in Parangkusumo. Sriyati, a 34-year-old masseuse, was accused of behaving in a sexy and provocative manner. While offering an advertisement of her massage services in front of her house, she was apprehended for being a prostitute. She could not refute the accusation and, therefore, was fined 500,000 rupiah. Instead of being sent to prison, she preferred to pay the fine by borrowing money from a friend. Being an elementary school graduate, she had to work hard to pay off the debt, since Sriyati could usually only earn 15,000 rupiah a day. The fine meant a downward spiral for her.[45] Another wrongful arrest occurred a couple of weeks after the regulation was issued. On 16 July 2007 the civil police detained 134 women. The story was that among them was a mother, who in the evening sat in front of her small shop (*warung*), was arrested and was charged with being a prostitute. The woman was in fact the wife of the head of Mancingan village, in Parangtritis. She failed to prove that

43 Peraturan Daerah Istimewa Yogyakarta No. 15/1954 tentang Penutupan Rumah-rumah Pelacuran.

44 Komnas Perempuan, *Atas Nama Otonomi Daerah*, 40.

45 Interview with Anik, the owner of a karaoke house in Parangkusumo, 20 July 2011.

she had not violated the law and, hence, was taken to the police station. However, before her appearance in court, her husband came with the necessary proof to secure her release.[46]

The regulation has created the impression that the Bantul administration is keen to eradicate prostitution, but that it continues to be practised. The administration upped the number of police raids on Friday Kliwon and Tuesday Kliwon to as many as two or three times a day. However, the prostitutes preferred to leave the centre and moved to the village residential areas. Residents are hardly keen to stop them, as the prostitutes provide income by renting rooms. In view of this, activists condemned the way the regulation was enforced. The above cases show the existence of institutionalised discrimination and criminalisation of female sex workers.[47] Criminalisation lies primarily in the principle of legal moralism and, secondarily, in the harm, legal paternalism, and offence principles.[48] These principles relate to the view that individual liberty is justifiably limited to prevent harm to oneself and others, immoral behaviour, and offence to others. In other words, these principles have been referred to in advance in order to justify legal restrictions on the liberty of individual adults.[49]

Harsh criticism was motivated by the fact that the regulation is aimed at catching the sex workers, not the pimps. Based on the records of the Bantul court, in addition to prostitutes and their customers, a number of young couples were arrested. Their cases are categorised as minor crimes (*tindak pidana ringan*). The records show that two months after its launch 127 sex workers were arrested in a month.[50] The fines varied and were dependent upon the judge's discretion. From 2007 to 2009, fines ranging from 300,000 to 500,000 rupiah were paid. In 2010, the fine declined to 100,000 rupiah. This considerable decrease was because

46 'Polres Bantul Rasia 134 PSK di Parangkusumo', *Suara Merdeka*, 17 July 2007.

47 Criminalisation is an act of controlling or restricting someone's actions and/or talk by making threats of criminal laws or an act of indentifying a legal activity as a crime. This approach has been used to relate prostitution to female morality, instead of poverty.

48 Rosemarie Tong, *Women, Sex, and the Law* (Maryland: Rowman & Littlefield Publishers, 1984), 39–43.

49 See Thomas Mappes and Jane Zembaty (eds.), *Social Ethics: Morality and Public Policy* (Boston: McGraw Hill, 2002); Thomas A. Mappes, 'Sexual Morality and the Concept of Using Another Person', in Alan Soble and Nicholas Power (eds.), *The Philosophy of Sex: Contemporary Readings* (Savage: Rowman & Littlefield, 2002), 207–223.

50 For a complete record of prostitution actions in the Bantul court from 2007 to 2011 see Appendix Table 2.

of one judge's belief that prostitutes were often mothers trying to earn money for their family. He believed that using the law as a deterrent and a sanction is therefore not necessarily the correct way to proceed in this context.[51]

Watin, the Coordinator of the People's Alliance Rejecting Land Evictions (Aliansi Rakyat Menolak Penggusuran, ARMP) stated that Parangkusumo people rely on tourism for their financial income. Following the issue of the regulation, traders suffered an economic decline of up to 90 per cent as Parangkusumo saw a significant decline in the number of visitors. People worried about raids and were fearful of being arrested and accused of violating the law.[52] The decreasing number of sex customers had an impact on the income of food shops and those hiring out rooms. They condemned the regulation as having made their lives difficult. The regulation also hit the transport sector.[53]

This situation triggered organisations attached to the Solidarity of Combating AIDS of Yogyakarta (Solidaritas Penanggulangan AIDS Yogyakarta, SPAY) to issue a press release criticising the regulation, which they claimed harmed and discriminated against women. These organisations held intense discussions involving social activists and prostitutes and agreed collectively that the regulation had to be rejected. The result was the establishment of an alliance, called the Alliance for the Rejection of the Bantul Regulation Banning Prostitution (Aliansi Tolak Perda Larangan Pelacuran di Bantul, ATPLP). The Indonesian Planned Parenthood Association (Perkumpulan Keluarga Berencana Indonesia, PKBI) served as the coordinator while the Institute for Islamic and Social Studies (Lembaga Kajian Islam dan Sosial, LKiS) was asked to appoint a campaign team.[54]

This regulation was accused of contradicting higher laws, such as the Indonesian Penal Code (*Kitab Undang-undang Hukum Pidana*, KUHP). In the KUHP, mainly chapter IV 'assault on chastity' including Articles 295, 296, and 506, the main point in prostitution regulation is the criminalisation of pimps who make money from selling women

51 Interview with Sri Sugiarti, law clerk of the Bantul court, 12 August 2011.

52 'Prostitusi Dipicu Kemiskinan, Tega Tarik Denda Ketua Dewan Tak Peka Realitas Sosial', *Radar Jogja*, 6 May 2011.

53 Interview with Mulyono, the owner of a karaoke and rooms business, July 2011. See also Fisqiyyatur Rohmah, 'Politik Peka Perempuan: Kajian Terhadap Peraturan Daerah No. 5 Tahun 2007 tentang Larangan Pelacuran di Kabupaten Bantul Daerah Istimewa Yogyakarta', UIN Sunan Kalijaga Yogyakarta, 2008.

54 Achmad Riza, 'Sejarah Perjalanan Aliansi Tolak Perda Larangan Pelacuran Bantul', www.ihap.or.id (accessed 26 February 2011).

as prostitutes. In addition, the content of the Bantul regulation was deemed vague and to be generalising prostitution problems in a too simplistic a way. As mentioned, Article 4, concerned with the definition of prostitution, is ambiguous. Descriptions of prostitution, such as 'enticing others in word and gesture to act obscenely' are unclear. Any couple, even a husband and a wife, found in a contiguous position would be liable to arrest for committing pornography. This is because the definition of prostitution is identical to that of pornography and does not acknowledge the presence of money to differentiate between sex workers and others.[55]

For this reason, the ATPLP sought judicial review of this byelaw from the Supreme Court in October 2007. The ATPLP drew attention to a number of problems in the implementation, as reported in the judicial review manuscript.[56] The request was, however, rejected by the Supreme Court for the reason that the time frame for such a request had expired. In 2010, the National Commission on Violence against Women (Komisi Nasional Anti Kekerasan terhadap Perempuan) reported that the rejection of judicial review of the Bantul regulation on prostitution was based on technical administrative reasons, i.e. that, according to the Supreme Court Decree 1/1999, an application for judicial review must not be filed more than 180 days after the issue of the regulation. Here, the Supreme Court is seen as failing to exercise its authority to annul discriminatory local regulations. The time limit set to apply for judicial review hampers people's rights to access to justice.

In a discussion held by the ATPLP on 24 June 2008, KH. Husein Muhammad, the leader of Pesantren Dar al-Tauhid in Cirebon, argued that good objectives should be achieved through good ways. He referred to the concept of Islamic law, declaring that one affliction cannot be removed by creating another one. He denied the position of this byelaw as a legal norm.[57] Likewise, KH. Nur Jamil, the leader of Nahdlatul Ulama

55 See 'Permohonan Uji Materiil terhadap Peraturan Daerah Kabupaten Bantul no. 5 Tahun 2007 tentang Larangan Pelacuran di Kabupaten Bantul', (Judicial Review's Petition on Bantul Regulation No. 5/2007 on the Ban on Prostitution), submitted by the ATPLP, October 2007.

56 The ATPLP identified seven problems in the implementation of the byelaw, i.e. 1) women would be subject to a curfew; 2) the raids disregard the principle of 'presumption of innocence'; 3) the victims of wrongful arrest are not rehabilitated and do not receive financial compensation; 4) raids violate the right not to be arbitrarily treated; 5) raids are contrary to the right not to be treated in a way which humiliates human dignity; 6) house searches took place without permission of the local court; and 7) raids violated the right to freedom of religion.

57 'Perda Bantul No.5 Tahun 2007 Tidak Layak Sebagai Produk Hukum', www.pkbi-diy.info (accessed 28 May 2011).

in Kretek, Bantul, acknowledged that the regulation is not a long-term solution and reminded people of the importance of strengthening the function of social capital in order to limit the effect of prostitution on the younger generation. He criticised the use of religious symbols to legalise the regulation and the fact that the government was not able to alleviate poverty. He encouraged the involvement of religious leaders in implementing the law, in addition to the civil police who tend to use repressive power to enforce it.[58]

The Alliance faced a number of challenges and obstacles when the government obstructed its campaign in several ways. First, not only did the Bantul administration ally with the ulama and the MUI, it also publicised the report of the District Health Office that the number of HIV infections had decreased as a result of the regulation. Thirdly, many Muslim organisations maintained and widely disseminated among their followers a religious interpretation of prostitution, one which was associated with adultery. This created a public feeling that the regulation is an effective tool for shaping morality and has no negative impact on the social and economic lives of local people. Fourthly, the Alliance was often deemed not to have the authority to criticise, or to contradict, the regulation.[59]

Their struggle was also hindered by the fact that most members of the Alliance are university students in Yogyakarta coming from different cities. In demonstrations or public hearings, they were asked to show their identity cards (KTP) in an effort to show that they did not represent the people of Bantul. The Bantul administration used this point to weaken their movement.[60] Being aware of this difficulty, the Alliance changed tactics. It broadened its scope of activism to issues beyond prostitution and changed the name of the organisation to the Alliance of Those Concerned about Bantul's Policies (Aliansi Peduli Kebijakan Bantul, APKB).[61]

58 Interview with KH. Nur Jamil, August 2011.

59 Nugroho Angkasa, 'Pelarangan Tentang Pelacuran di Bantul Yogyakarta', *Kabar-Indonesia*, 6 August 2008.

60 Interview with Tustiyani, the head of DPRD Bantul, July 2011.

61 Interview with Subkhi Ridho, the coordinator of Lembaga Studi Islam dan Politik (LSIP, the Centre for the Study of Islam and Politics), member of the ATPLP, July 2011.

6 Conclusion

The Bantul byelaw on prostitution is one of many regulations on matters of public morality. The regulation touches upon a number of key concepts, such as the violation of religious teachings, human dignity, Pancasila and health. The rise of the PKS and PD and the decline of the PDI-P has been one of the socio-political factors which provides for a situation where the political parties find themselves stressing Islam and Muslim interests.

As a result of the absence of a single definition of prostitution, debate over the meaning of prostitution in the regulation occurred. While the secular parties relate prostitution to public participation and health issues, the Islamic ones connect prostitution with Qur'anic-based morality. The borders and limitations of prostitution are unclear. Unlike the preceding regulations, such as the 1954 Yogyakarta province regulation, and the KUHP, which only deal with the issue of pimps and brothel owners, the Bantul regulation has a broader scope, covering everyone committing indecent acts, including for example those acting seductively.

Besides the cases of wrongful arrest, the Bantul court reports record that no pimps have ever been arrested under the regulation. Instead, intense raids by the police resulted in women suffering significant economic hardship. Women activists and organisations harshly criticised the regulation as it has institutionalised the criminalisation of women. Legal attempts to change or revoke the byelaw, through judicial review petitions, have been made, but so far have been unsuccessful.

Appendix

TABLE 2 *Result of the national and Bantul elections in 2004 and 2009*

Party	National (percent)		Bantul (seat)	
	2004 (per cent)	2009 (per cent)	2004	2009
PDI-P	18,53	14,03	16	11
Partai Golkar	21,58	14,45	5	5
PD	7,45	20,85	1	5
PAN	6,44	6,01	7	7
PKS	7,34	7,88	5	5
PPP	8,15	5,32	3	4
PKB	10,57	4,94	6	3

TABLE 3 *Prostitution actions in the Bantul court (2007–2011)*

	Month												Σ
Year	1	2	3	4	5	6	7	8	9	10	11	12	
2007					2	8	127	18	15				152
2008	15			10	27	4		57	8				117
2009					41	13		17			21		92
2010								39			3	22	64
2011		57	58	7	7	24	39	6					198
Σ													623

PART 3

SHARIA AND COUNTERCULTURE IN ACEH

Kees van Dijk

Aceh has always been both a special and (for the central government) a troublesome province. The region is well-known for the religious disposition of its inhabitants and is invariably mentioned as one of Indonesia's 'most Islamic' regions. Aceh also has a history of fierce resistance against any infringements on its freedom to arrange its own affairs. In the closing decades of the 19th century it took the Dutch much effort to subjugate Aceh, something which according to the Acehnese was never fully accomplished. Between 1945 and 1950 no Dutch troops were sent to Aceh. The Dutch refrained from any effort to re-establish their authority there, afraid, if the Acehnese are to be believed, of the resistance they might encounter. During this period Aceh wholeheartedly supported Indonesia's struggle for independence, but in 1953 it clashed with Jakarta. Acehnese leaders, resisting control by the central government over the judiciary, the local administration and local units of the Indonesian army, took up arms and joined the rebellions that were taking place in other parts of Indonesia, striving for an Islamic State of Indonesia. An additional cause for concern that the province's existence was in danger was that Acehnese religious leaders had their doubts about the orthodoxy of Islam being promoted by the central government; identified by these leaders as being inspired by Islam as practised on Java. In 1957 a ceasefire was agreed upon and in May 1959 Aceh was granted special status. It became the Special Region of Aceh (Daerah Istimewa Aceh) (the only other province with the same status was and is Yogyakarta) and it was given autonomy in the fields of religion, customs and education.

In fact, May 1959 was not the right moment in Indonesian history to be awarded a degree of self-rule. Two months later President Sukarno proclaimed a return to the Constitution of 1945. The proclamation ushered in Guided Democracy, a period that would prove to be at least as oppressive as that of the New Order. The new name given to the province survived, but that was all that was accomplished. Centralisation, not decentralisation characterised the years between 1959 and 1998. The

dissatisfaction this caused once again resulted in the Acehnese taking up arms. In 1976 the Gerakan Aceh Merdeka (Free Aceh Movement, GAM) was founded. Government suppression of the GAM was brutal, with many ordinary citizens falling victim to the army's operations as well.

The fall of the Suharto regime in 1998 was a watershed moment. To redress the mistakes of the past, decentralisation became a political priority. This new policy was coupled with efforts to end rebellions in a number of provinces that had plagued the country for years. Under B.J. Habibie, the first president after Suharto, East Timor (Timor Leste) was granted independence, while Aceh's prerogatives of May 1959 were reconfirmed. Under his successors, Abdurrahman Wahid and Megawati Soekarnoputri, expecting or hoping that religious concessions might end the GAM rebellion, Jakarta gave Aceh the authority to develop its own Islamic legal system, culminating in Law No. 18 of 2001 on special autonomy for Aceh. The law also gave Aceh a new name, Nanggroe Aceh Darussalam, Aceh Country Abode of Peace, combining Acehnese and Arabic terminology. The miscalculation in Jakarta was that for the GAM it was independence that mattered in the end, not religious reform. As Reza Idria writes in his contribution, in the negotiations leading up to the Memorandum of Understanding between GAM and the Indonesian government of 15 August 2005, Sharia formed no part of the discussions.

It took until after the tsunami of December 2004 for an agreement to be reached. By then, the central government had put into place a framework for the implementation of Islamic law in Aceh which, as would later become clear, GAM leaders could only partly endorse. The tension between Islamisation promoted from outside and local opinions is illustrated by the inclusion of the punishment of stoning to death for those who commit adultery in a draft law in 2009. This was the work of the national Islamic party PKS (which evoked the threat, often used in Islamist circles, of eternal damnation in order to get fellow Muslim politicians to support its view), but as Moch Nur Ichwan notes in his contribution, the new bill did not take effect because the governor of Aceh, a former GAM leader, refused to sign it.

In this section it has been chosen not to highlight Aceh's fame as a province where the people are committed to the enforcement of Sunni Islam, but to draw attention to behaviour in defiance of this and to the existence of groups and opinions which challenge orthodox interpretations. As Reza Idria points out, most studies on Sharia in Aceh have emphasised its enforcement, and rarely deal with the reactions of the Acehnese population to its implementation. A similar remark can be made about the reports published by human rights organisations and other NGOs, and by the coverage in Indonesian and foreign mass

media. Hence, he and Nur Ichwan, who emphasises the same point, pay particular attention to criticism and counter-streams in Acehnese society. In part, such dissent takes the form of a critical discussion of the concrete shape that Sharia legislation has taken; stressing how little attention is paid to the real problems that have to be tackled, such as the combat of corruption and poverty and how detrimental the new legislation is to the position of women and members of minority groups. As becomes clear from Nur Ichwan's discussion of the position of heterodox Sufi in present-day Aceh, another point of concern is the strict interpretation of Sunni tenets that characterise the religious laws promulgated thus far in Aceh, disregarding the beliefs and practices of the Shi'a, Sufi, Ahmadiyah and other religious minority communities and the concomitant lack of religious tolerance such an approach reflects. To a degree, resistance finds its expression in defiance of religious directives imposed from above by the population at large and by punkers, homosexuals and other people with a different way of life and who are trying to preserve their own subculture. As Reza Idria also points out, yet another point is the value attached to one's own way of life. Some Acehnese Islamic leaders almost took it as an insult that it was Jakarta, and not they themselves, that determined what the introduction of Islamic law would mean in a region well-known for its devotion to Islam and its rich Islamic tradition.

A question to be asked when discussing Islamic legislation – in Aceh and elsewhere – is whether 'religion' can be isolated in studying its implementation. Religiously inspired byelaws in other parts of Indonesia are defended not by an appeal to Islam, but by evoking Indonesian and local values and norms of decency. One cannot simply dismiss such reasoning as justifications conjured up by politicians in Jakarta and others in order to circumvent the legal ban on the drafting of religious regulations by local administrations. The result would be an oversimplified picture of what makes people play an active role in the introduction and enforcement of Islamic law and in resisting it. In Islamic Southeast Asia religion and customs (*agama dan adat istiadat*) are often mentioned in one and the same breath; and as the contributions to this section indicate, local values form an important point of reference. Reza Idria calls attention to the fact that in Aceh behaviour is often prohibited because it is incompatible with Islamic and Acehnese culture.

His contribution is a good illustration of David Kloos' observation that fieldwork is an indispensable tool when dealing with the construction and functions of stereotypes about the Acehnese, presented by outsiders and in local society itself; and also in relation to the misconceptions which are the result of fixed ideas about a society. He shows that the representation of the Acehnese as being pious and militant people should

not make people conclude that the Acehnese are necessarily receptive to fundamentalist or Islamist propaganda from outside; for that the opinions about what constitutes proper Islam are too wide apart. This was, as David Kloos points out, a mistake made by former Jemaah Islamiyah leaders when they set up a training camp in Aceh, discovered by the Indonesian authorities in 2010. Earlier, in 2002, al-Qaeda leaders, investigating the possibility of setting up a base in Aceh probably made the same wrong assessment. The discovery of the training camp and the military operations against it form the point of departure of David Kloos' analysis. Taking place near the village where he was doing fieldwork, the events allowed him to gain a first-hand insight into people's reaction and beliefs; and also in a society made weary by past violence.

7 Neo-Sufism, Shariatism, and Ulama Politics

Abuya Shaykh Amran Waly and the Tauhid-Tasawuf Movement in Aceh[1]

Moch Nur Ichwan

1 Introduction

The current official implementation of Sharia in Aceh and the subsequent emergence of shariatism,[2] represented by Islamist groups, have positioned Sharia as the 'master signifier' which defines almost all spheres of life – educational, social, political, economic and cultural. In this context, official Sharia ulama as well as societal Sharia ulama emerged as the authority to define what kind of Islam is to be adopted by the government and practised by people in the region. This development has undeniably led to the marginalisation of non-Sharia oriented Muslim groups, such as Sufi and other groups considered as being deviant. This has also led to the resurfacing of a confrontation between Sufi ulama and Sharia ulama in Aceh. The best example of this conflict is that between an official ulama institution Majelis Permusyawaratan Ulama (MPU, Consultative Council of Ulama)[3] and the societal ulama organisations Himpunan Ulama Dayah Aceh (HUDA, Association of Acehnese Dayah Ulama) and Majelis Ulama Nanggroe Aceh (MUNA, Ulama Council of

1 Part of this contribution was presented at the conference *Sufism for a New Age*, University of Western Sydney, 9–30 September 2011. I would like to thank Prof. Julia Day Howell and the participants in the conference for their fruitful discussion. I would also like to thank the Islam Research Programme (IRP) of Leiden University for making the research for writing this chapter possible. However, I alone am responsible for its content. Fieldwork was carried out in February 2009, March 2010, July 2011 and January 2012.

2 Shariatism here is a religio-political ideology which aims to promote comprehensive Sharia implementation in all aspects of life.

3 While the MUI is a state-supported societal institution, the MPU is fully part of the state. Qanun No. 9/2003 gives the MPU powerful authority. Executive and legislative bodies are obliged to consult it not only in matters pertaining to Sharia but also in 'secular' policies – although such a power has not been exercised properly.

Nanggroe Aceh) on the one hand and a neo-Sufi group, called Majelis Pengkajian Tauhid Tasawuf (MPTT, Council for the Study of Tauhid Tasawuf), led by Abuya Shaykh Amran Waly, on the other hand.[4] Amran Waly has been accused of spreading *wahdat al-wujud* (Unity of Being/monism), a Sufi teaching of man's unity with God which is considered by Sharia ulama as deviant and not being in line with 'correct' Sunni orthodoxy.

This chapter will analyse the neo-Sufi challenge by Abuya Shaykh Amran Waly and the Majelis Pengkajian Tauhid Tasawuf, which I call the Tauhid Tasawuf movement, to official shariatisation by the state and shariatism in general. Amran Waly and the MPTT try to synthesise the *wujudiyya* Sufi doctrine with orthodoxy, a concern which has led to them being charged with heterodoxy. However, the fact that the MPTT survives to this day and is even spread widely not only in Aceh but also elsewhere in Indonesia and Southeast Asia deserves further analysis. Amran Waly's views on Sharia, 'tauhid tasawuf' and wahdat al-wujud, and the way Sharia ulama have reacted will get special attention here. I will argue that the long struggle between Sharia and Sufi ulama should be understood in the context of the local politics of Aceh and that the dissemination of Sufi views and ways of life reflects their resistance against the overwhelming official Sharia implementation and shariatism in Aceh today.

2 Shariatism and Sufism: Never-Ending Struggle?

The conflict between Sharia and Sufi ulama is not new in Aceh. It dates back to before the 13th century, to the early dissemination of Islam in the region. Anthony H. Johns argued that it is through Sufism that Islam was first introduced to Aceh and elsewhere in Southeast Asia.[5] In fact, Sufism was 'state Islam' in the Acehnese Sultanate for quite a long time

4 I adopt the notion of neo-Sufism used by Howell which means 'a this-worldly ethical and devotional practice free of the Sufi orders': Julia Day Howell, 'Sufism and the Indonesian Islamic Revival', *Journal of Asian Studies*, 60:3 (2001), 701–729. Amran Waly's MPTT is included in the category of neo-Sufi movements because it emphasises the spirituality of this-worldly ethical and devotional practice and does not follow the disciplines of Sufi orders, especially in terms of the relationship between the spiritual leader and his disciples.

5 Anthony H. Johns, 'Islamization in Southeast Asia: Reflections and Reconsiderations with Special Reference to the Role of Sufism', *Southeast Asian Studies*, Vol. 31, No. 1, June 1993, 43–61.

during which period Sharia ulama were marginalised. During the reigns of Sultan ʿAlauddin Riʿayat Shah (1589–1604) and Sultan Iskandar Muda (1607–1636), which is considered to be the golden age of Aceh, the Sufi ulama Shaykh Hamzah al-Fansuri (d. 1590) and Shaykh Syamsuddin al-Sumatrani (d. 1630) successively assumed the position of shaykh al-Islam of the sultanate.[6] These ulamas were Sufi masters who embraced the *wujudiyya* Sufi teaching, which believed in a possible unity with God through the spiritual path. They enjoyed the protection and patronage of their respective sultans in carrying out their intellectual activities and disseminating their teaching, despite strong opposition from the Sharia ulama.[7] When al-Sumatrani died in 1630, he was replaced by his Sufi disciple, Shaykh Jamaluddin, but the latter was not appointed shaykh al-Islam.

Sultan Iskandar Thani, who reigned from 1636 to 1641, appointed Shaykh Nuruddin al-Raniri (d. 1658), a high profile orthodox Sufi ulama of the Rifaʿiyya, ʿAydarusiyya and Qadiriyya orders from Ranir (Rander) in India, as shaykh al-Islam in 1637.[8] Invested with this authority, al-Raniri condemned the wujudiyya teaching of al-Fansuri and al-Sumatrani and considered it deviant and misguided. He even ordered the execution of some wujudiyya followers and all al-Fansuri's and al-Sumatrani's books to be burned.[9] He retained his position of shaykh al-Islam when Iskandar Thani died and was replaced by his daughter, Sultanah Safiyatuddin (1641–1675). When he lost the support of the Sultanah, he left Aceh in 1644, and was replaced by Shaykh Saif al-Rijal, a wujudiyya Sufi master. Saif al-Rijal continued to spread al-Fansuri's and al-Sumatrani's

6 Amirul Hadi, *Islam and State in Sumatra: A Study of Seventeenth-Century Aceh* (Leiden, etc: Brill, 2004), 148–149.

7 Osman bin Bakar, 'Sufism in the Malay-Indonesian World', in Seyyed Hossein Nasr (ed.), *Islamic Spirituality: Manifestations* (New York: The Crossroad Publishing Company, 1991), 285.

8 Azyumardi Azra, *Networks of Malay-Indonesian and Middle Eastern 'Ulama' in the Seventeenth and Eighteenth Centuries*, ASAA Southeast Asian Publication Series (Hawaii: University of Hawaii Press 2004), 56. On Al-Raniri see Muhammad Naquib al-Attas, *Raniri and the Wujudiyyah of 17th century Aceh* (Singapore: Monographs of the Malaysian Branch of the Royal Asiatic Society, no. 3, 1966); G.W.J. Drewes, 'Nur al-Din al-Raniri's charge of heresy against Hamzah and Shamsuddin from an international point of view', in C.D. Grijns and S.O. Robson (eds.), *Cultural contact and textual interpretation: Papers from the fourth European colloquium on Malay and Indonesian studies, held in Leiden in 1983. Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde, vol. 115* (Dordrecht and Cinnaminson: Foris Publications, 1986), 54–59.

9 Hadi, *Islam and State in Sumatra*, 157.

teachings. Yet not much information is available about him and his thoughts.[10]

Replacing Saif al-Rijal in 1661, Syaikh Abdurra'uf al-Sinkili (d. 1693), who was a low profile orthodox Sufi of the Shattariyyah order, took a moderate position in the conflict between wujudiyya and shariatism. He was well accepted by the four successive sultanahs of Aceh (Safiyatuddin Tajul Alam [1641–1675], Naqiyatuddin [1675–1678], Zakiyatudin 'Inayat Shah [1678–1688], and Zainatuddin Kamalat Shah [1688–1699]) until his death in 1693.[11] As orthodox Sufi master, al-Sinkili, tried to reconcile Sharia and *tasawuf* (Sufism). He never condemned wujudiyyah followers and discouraged the labelling of other Muslim fellows as *kafirun* (disbelievers).[12] The period of the sultanahs reflect the adoption of heterodox and then orthodox Sufism as 'state Islam'.

Today Aceh again is the scene of a confrontation between Sharia ulama, orthodox Sufi ulama and heterodox Sufi ulama, with the first group dominating the other two. While Sharia ulama can align with orthodox Sufi ulama, they cannot do so with heterodox ones. Sharia ulama and orthodox Sufi ulama even at times join hands in challenging the heterodox Sufi ulama. The dominant role Sharia ulama currently play in Aceh could not have been attained without the help of the state which officially implements Sharia from above.[13] The role of Sharia

10 Saif al-Rijal was originally from Minangkabau. He studied in Surat in India, and arrived in Aceh on 8 August 1643. He was the student of Shaikh Jamaluddin, the disciple of al-Sumatrani. Takeshi Ito, 'Why Did Nuruddin ar-Raniri Leave Aceh in 1054 A.H.?', *BKI* 134 (1978), 490–491; Azra, *Networks of Malay-Indonesian and Middle Eastern 'Ulama'*, 60–62; Hadi, *Islam and State in Sumatra*, 157; Sher Banu A.L. Khan, 'What Happened to Syaiful Rijal?', in *Bijdragen tot de Taal-, Land- en Volkenkunde*, April 2011.

11 For further study on these sultanahs see Sher Banu A.L. Khan, *Rule Behind the Silk Curtain: Sultanahs of Aceh 1641–1699*, unpublished PhD dissertation, Queen Mary University of London, 2009; idem, 'The Sultanahs of Aceh 1641–1699', in Graf, Schroter and Wieringa (eds.), *Aceh: History, Politics and Culture* (ISEAS: Singapore, 2010); Mehment Ozay, 'Women as Rulers Phenomenon in Southeast Asian Islamic Society: The Queens of Aceh', paper presented at World Congress for Islamic History and Civilization: Intellectuals Stimulate Transformation, Academy of Islamic Studies, University of Malaya, 10–11 October 2011.

12 Hadi, *Islam and State in Sumatra*, 157.

13 For more on Sharia in Aceh see Moch Nur Ichwan, 'The Politics of Shari'atization: Central Governmental and Regional Discourses of Shari'a Implementation in Aceh', in R. Michael Feener and Mark Cammack (eds.), *Islamic Law in Contemporary Indonesia: ideas and institutions* (Cambridge, Massachusetts: Islamic Legal Studies Program, Harvard Law School and Harvard University Press, 2007), 193–

ulama in drafting some Sharia qanuns (byelaws) is apparent, since they hold positions in the Dinas Syariat Islam (Sharia Office) and the MPU;[14] as is their role in drafting and endorsing the draft qanun on Jinayat (Islamic Criminal Legal Code) and the Qanun on Islamic Criminal Legal Procedure. Although these qanuns could not be implemented because the governor refused to ratify them despite their approval by the Parliament of Aceh, the Sharia ulama continue to struggle for their implementation. Together with Sharia-oriented Islamist organisations and movements, they demand the reopening of the discussion in Aceh's legislative assembly.[15] Sharia ulama are also influential in other Sharia state institutions, such as Mahkamah Shariyah (Sharia courts), Wilayatul Hisbah (Sharia police – now integrated with the civil service police [Polisi

215; Tim Lindsey, M.B. Hooker, R. Clarke and J. Kingsley, 'Shari'a Revival in Aceh', in Feener and Cammack (eds.), *Islamic Law in Contemporary Indonesia*, 216–254; Arskal Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: Hawaii University Press, 2008); Al Yasa' Abubakar, *Syariat Islam di Provinsi Nanggroe Aceh Darussalam: Paradigma, Kebijakan dan Kegiatan* (Banda Aceh: Dinas Syariat Islam NAD, 2008); Reza Idria, 'Mesin Syariat', *Journal Gelombang Baru*, vol. 4 (2009), 7–15; Michael Feener, *Shari'a as Social Engineering* (London: Oxford University Press, 2013).

14 The Sharia qanuns are Qanun No. 10/2002 on Islamic Courts; Qanun No. 11/2002 on the Implementation of Islamic Sharia in the Field of Islamic Belief (*'aqidah*), Worship (*'ibadah*) and Symbols (*shi'ar*); Qanun No. 12/2003 on Intoxicants and the like (*khamr*); No. 13/2003 on Gambling (*maysir*); Qanun No. 14/2003 on the Illicit Relations between Men and Women who are not Married (*khalwat*). These qanuns could not be properly implemented in the Sharia courts until the Governor's Regulation No. 10/2005 on Technical Guidance for the Implementation of Punishment (*'uqubat*) was issued on 12 June 2005. Since then Aceh has witnessed Sharia punishment, especially for gamblers, people consuming alcoholic beverages, and for khalwat and adultery by caning in public. The implementation of Sharia in the region was finally strengthened by the Law on the Governing of Aceh (LoGA) in 2006, a law issued after the Helsinki Peace Agreement of 2005 between the Indonesian government and the Free Aceh Movement.

15 The issue of the qanun on Jinayat was raised again in the run up to the 2014 general elections and it has been agreed to discuss it again in the Parliament. If this qanun were to be ratified by the governor, Sharia implementation would be much more 'comprehensive' and would include stoning to death (*rajm*) for married adulterers and caning for homosexuality – practices conducted in other Islamic countries, such as Saudi Arabia and Pakistan. The draft qanun included such punishments as 100 lashes of the cane for unmarried adulterers and stoning to death for the married ones; 100 lashes and a maximum fine of 1,000 grammes of fine gold, or imprisonment of up to 100 months for homosexuals.

Pamong Praja]), and Baitul Mal Aceh (Islamic Treasury House).[16] In these institutions orthodox Sufi ulama share some influence, but the heterodox ones do not.

As the state ulama institution which has the right to issue fatwas, the MPU plays an important role in defining Islam for the region, and can decide what kind of Islam is to be adopted by the state. By issuing fatwas, the MPU disseminates its Sharia-oriented views and exercises its political interests. It has the right to claim which groups are in line with the 'right Islam' and which are not, and which groups should be supported and which groups should be marginalised. Whereas most of its members are Sharia ulama, there are also a number of orthodox Sufi ulama, but no heterodox ones.[17]

There are also societal ulama organisations which bring together Sharia ulama and orthodox Sufi ulama. Among them are the HUDA and MUNA.[18] While most of their members are Sharia ulama, a number of them are Sufi ulama who are mostly associated with orthodox Sufi groups (*tariqah mu'tabarah*). HUDA's chairperson, Abuya Ibrahim Bardan (well-known as Abu Panton [1945–2013]), was a Sharia ulama who was at the same time also a member of the Naqshabandiyah order.[19] MUNA's spiritual adviser, Abuya Prof. Muhibbuddin Waly (also known as Abuya Professor), was the grand leader (*murshid 'amm*) of the

16 On state policies on Sharia in Aceh see Al Yasa' Abubakar, *Syariat Islam di Provinsi Naggroe Aceh Darussalam: Paradigma, Kebijakan dan Kegiatan* (Banda Aceh: Dinas Syariat Islam (5th ed.), 2008).

17 For more information on the MPU see Moch Nur Ichwan, 'Official Ulema and the Politics of Re-Islamization: The Majelis Permusyawaratan Ulama, Shari'atization and Contested Authority in Post-New Order Aceh', *Journal of Islamic Studies* 22:2 (2011), 183–214.

18 HUDA is a *dayah*-based ulama association established in 1999 to support a referendum in the province on the status of Aceh (Michelle Ann Miller, *Rebellion and Reform in Indonesia: Jakarta's Security and Autonomy Politics in Aceh* (London: Routledge, 2009), 54, 77). MUNA is an ulama association created by ex-GAM members and the Aceh Party before the general elections of 2009. There is also an association for dayahs and their ulama, Inshafuddin, associated with the PERTI (Persatuan Tarbiyah Islam), a traditionalist Muslim organisation. Many of its members are also members of the HUDA, MUNA, and MPU. However, as it presents itself more as a dayah association, rather than association of dayah ulama, I do not include it in the category of ulama organisations. Moreover, Inshafuddin stays aloof from politics and Sufi debates, although some of its members get involved personally.

19 Communication with Tgk. Faisal Ali, secretary general of HUDA, 20 November 2013.

Naqshabandiyah order in Aceh until his death in 2012. Led by an orthodox Sufi, the members of MUNA are mostly Sharia-oriented and orthodox Sufi Muslims.

Although there have been differences of opinion between HUDA and MUNA, and between them and the MPU, these three ulama organisations unite in facing the MPTT and raising the issues of deviant sects (*aliran sesat*). The ulama of the MUNA, HUDA and MPU of East Aceh, for instance, joined forces against what they called groups or persons not being part of Sunnism (*Ahlu-sunnah wal-jama'ah*, People of the Sunnah of the Prophet and the Community) or being 'deviant and misguided'. They organised a gathering on 26 May 2009 to launch a fatwa that the Naqshabandiyah opinions taught by Prof Dr Kadirun Yahya were deviant and misguided. The provincial MPU issued a similar fatwa.[20] Kadirun Yahya's followers were asked to repent and return to the correct course in accordance with true Sunnism.[21] One year later, on 15 May 2010, these three ulama organisations of East Aceh issued another fatwa against wahdat al-wujud, which was aimed at Abuya Amran Waly's religious teachings, as we will see below.

What is related above reflects the image of Aceh as a province of Sharia. No terms or concepts associated with Sufism are found in any of the qanuns. The Aceh administration no longer considers tasawuf an important part of governance.[22] Sufism is allowed as far as it is in line with the Sharia worldview, that is, orthodox Sufism which tries to reconcile Sufism and Sharia. Among the orthodox Sufi orders active in Aceh are the Naqshabandiyah, Qadiriyah wa Naqshabandiyah (TQN), Naqshabandi Haqqani, Shattariyah and Haddadiyah.

The Naqshabandiyah, a Sufi order established by Baha'ud-Din Naqshband Bukhari (1318–1389) in Central Asia, has been active in Aceh at least since the 17th century. In the 20th century it grew in popularity

20 Majelis Ulama Permusyawaratan. *Kumpulan Keputusan Majelis Permusyawaratan Ulama Provinsi Nanggroe Aceh Darussalam* (Banda Aceh: Sekretariat Majelis Permusyawaratan Ulama, 2008), 123–125.

21 They accused Kadirun Yahya's Naqsyabandiyah of being deviant because they claim that it teaches, among other things, that Qur'anic verses can make dead people alive; that the spirits of dead people are flying between heaven and earth; that someone who performs *suluk* (spiritual exercise) at a certain place is not obliged to perform the Friday prayer; and that someone who has no money to perform the pilgrimage to Mecca should perform suluk at a particular place (Sufimuda, 'Ulama yang Menyesatkan Ulama', http://sufimuda.net/2009/05/27/ulama-yang-menyesatkan-ulama/).

22 Kamaruzzaman Bustamam-Ahmad, *Acehnologi* (Banda Aceh: Bandar Publishing, 2012), 84.

since in the 1940s Shaykh Muda Waly al-Khalidy disseminated its tenets. After his death in 1961, his elder son, Abuya Shaykh Tgk. Muhibbuddin Waly, was appointed the murshid 'amm of the Naqshabandiyah in Aceh. When Muhibbuddin Waly died in 2012, he was replaced by his younger brother, Abuya Tgk. Jamaluddin Waly.[23] Tgk. Ibrahim Bardan (Abu Panton), chairperson of HUDA, was also a member of this Sufi order, but not a murshid.[24] The Naqshabandiya is an orthodox Sufi order which tries to bring mystical teachings and practices into conformity with the precepts of Islamic law. Weismann even says that although many ulama emphasised the basic compatibility of Sufism and orthodoxy, 'none, however, combined and implemented the two tenets in so consistent a way as did the masters of the Naqshbandiyya.'[25]

The Qadiriyah wa Naqsabandiyah (TQN), of which the current headquarters are located in Tungkop, Aceh Besar, is led by Tgk. Sulfanwandi Hasan. It organises *pengajian* (religious instruction gatherings) and *dhikr* meetings every Thursday evening in the mosque of the dayah Yayasan Raudhatul Qur'an Darussalam, which he leads. Most who attend have an urban background and come from Aceh's capital, Banda Aceh. The meetings usually emphasise soul purification by way of dhikr, rather than by Sharia byelaws. According to Tgk. Sulfan, Muslims can enjoy religion by practising dhikr, and not by implementing laws in the form of qanuns. Dhikr is spiritual food for humans that should be continually renewed so that human spirituality survives. Therefore, it is Islamic spirituality and not Islamic laws that should be revived.[26]

The Naqshabandi Haqqani brotherhood of Aceh is led by Teungku Muhammad Zamhuri al-Hafizh (as *khalifa*), one of the imams of the Baiturrahman grand mosque in Banda Aceh. Teungku Zamhuri leads dhikr meetings every Wednesday night at the mosque of Gampong

23 The other murshids are Teungku Haji Adnan Mahmud Bakongan, Teungku Haji Abdul Hamid Meulaboh, Teungku Haji Hasan Abati Lamno, Abu Matang Peureulak, Abu Karimuddin Baktya, Teungku Haji Nasir Waly, Waled Hasanul Basri Pimpinan Dayah MUDI Mesra Samalanga, Abu Muhhamad Tayeb Batee Lhee Lhoksukon dan Tgk. Zuhdi, the son of Abu Karimuddin: 'Dayah Darussalam: Pusat Kajian Tauhid dan Tasawuf Tertua di Pantai Barat Selatan Aceh', http://www.dokumenpemudatqn.com/2013/09/dayah-darussalampusat-kajian-tauhid-dan.html.

24 Communication with Tgk. Faisal Ali, secretary general of HUDA, 20 November 2013.

25 Itzchak Weismann, *The Naqshbandiyya: Orthodoxy and Activism in a Worldwide Sufi Tradition* (London etc.: Routledge, 2007), vii.

26 Communication with Sehat Ihsan Shadiqin, who sometimes attended the pengajian of TQN, 5 January 2011.

Lambhuk in Banda Aceh, conducted after the evening prayer and usually attended by about 20 people, coming from Lambhuk and the surrounding villages. In 2004 after the tsunami, Teungku Zamhuri and his disciples coordinated donations from the members of the Naqshabandi Haqqani from around the world for the survivors of the disaster. What is special about the order is that it uses music, called in Aceh *rapai*, during the dhikr. This is unusual in Aceh, because most Sharia-oriented ulama consider music forbidden, certainly during dhikr meetings. However, Teungku Zamhuri views rapai as a medium for making the heart peaceful and for concentrating on the dhikr. He believes that the Sufis in the past used music during dhikr meetings to increase concentration. Concerning Sharia, Teungku Zamhuri said that implementation of Sharia as it is today will not bring people closer to God. For him, God should be approached by dhikr and good deeds to others.[27]

The Shattariyah order has been active in Aceh since the days of Shaykh ʿAbdurrauf al-Sinkili. The current centre is the Masjid Jamik (Grand Mosque) of the village of Peulekong in the Seunagan Timur sub-district in Nagan Raya. The order is led by the murshid Abu Habib Kudrat, descendent of Habib Abu Muda Seunagan, an important Shattariyyah leader in Aceh. The Shattariyah Sufi in Aceh persist in using their own method of deciding the beginning of Ramadan and Shawwal, and it is not uncommon for its followers to begin fasting and to celebrate ʿId al-Fitri on a day different from that decided by Sharia ulama and the government.[28]

Unlike other Sufi orders, the Haddadiyya, known also as Alawiyya, does not have many followers in Aceh where it was introduced by Syaikh Abu Hasan Krueng Kalee (1886–1973), who joined it when he lived in Mecca.[29] Syaikh Abdullah Ujong Rimba, his disciple, joined the order under his guidance. The reason the Haddadiyya order is not well developed is that neither of these charismatic ulama made a conscious effort to propagate it. The grandson of Syaikh Krueng Kalee, Tgk. Qusaiyen, informed me that he had been told that Syaikh Krueng Kalee considered *tariqa* (spiritual path) to be compatible only for those who have problems with (or are weak in) religious Islamic

27 Sehat Ihsan Shadiqin, 'Tasawuf dalam Wilayah Syariat: Sufisme dalam Masyarakat Aceh Kontemporer', *Jurnal Ar-Raniry*, No. 86, July–December 2009, 76–94.

28 'Pengikut Tarekat Syattariah di Aceh Shalat Id hari ini', http://regional.kompas.com/read/2013/10/14/1505506/Pengikut.Tarekat.Syattariah.di.Aceh.Ikuti.Shalat.Id.Hari.Ini.

29 Sehat Ihsan Shadiqin, *Tasawuf Aceh* (Banda Aceh: Bandar Publishing, 2008), 143–146.

knowledge. He also said that it had been tried to revive the Haddadiya, but that this had not been successful.[30]

All the abovementioned tariqas in Aceh are part of orthodox Sufi orders. There are also some heterodox wujudiyya Sufi and neo-Sufi groups. In the past wujudiyya Sufism existed as spread by Hamzah al-Fansuri, Syamsuddin Sumatrani and Saiful Rijal. Today, Aceh wujudiyya Sufism has emerged in a new form. The Majelis Tasawuf Hamzah Fansuri, for instance, which is led by Abu Alimin, the head of dayah Hamzah Fansuri of Ujong Pancu, disseminates the teachings of Hamzah al-Fansuri. Unlike other dayah, his students come to the dayah in the evening, sleep there after studying and go home in the morning. What is taught is not Sharia, but rather *haqiqa* (Essence of God) and *maʿrifa* (spiritual knowledge of God). Some ulama accuse Abu Alimin of spreading Hamzah al-Fansuri's teaching of wahdat al-wujud, which mainstream Acehnese ulama look upon as deviant. Abu Alimin is interested in the esoteric, spiritual dimension of Islam, rather than in the qanunisation of Sharia.[31]

There are some other groups, locally commonly called *salek buta* (blind Sufi practitioners), which perform certain Sufi practices, but do not have tariqa chains or a murshid. Most of them are based on doctrines of wujudiyya. Fatwas were issued against them by the MUI of Aceh during the New Order period and by the MPU after 1998. Another organisation condemning them was the Muhasabah Ulama Forum of North Aceh. In August 2009 it issued a fatwa against the teachings of Kasem Bin Sulaiman,[32] followed in November 2009 by a fatwa against Amran Waly. A third fatwa was issued in 2010 against Teungku Muhammad of Tanah Pasir.[33] All these groups are considered to go against the correct doctrine of the Ahl al-Sunna wa al-Jamaʿa.

In the last decade new popular neo-sufi movements have emerged. As elsewhere in Indonesia this happened especially in the cities. In Indonesia neo-Sufism has been an urban phenomenon since the 1990s.[34]

30 Communication with Tgk. Qusaiyen, 29 January 2014.

31 Shadiqin, 'Tasawuf dalam Wilayah Syariat', 80–85.

32 'Fatwa MPU Aceh Utara Tentang Aliran Salek Buta', http://www.santridayah.com/2012/12/fatwa-mpu-aceh-utara-tentang-aliran-salek-buta.

33 'Dinyatakan Sesat Aliran Sekte Salek Buta Masih Resahkan Aceh', http://www.voa-islam.com/read/indonesiana/2010/01/06/2439/dinyatakan-sesat-aliran-sekte-salek-buta-masih-resahkan-aceh/#sthash.d4utj2fs.dpbs.

34 Julia Day Howell, 'Indonesia's Urban Sufis: Challenging Stereotypes of Islamic Revival', *ISIM Newsletter* 6 (2000), 17; Julia Day Howell, Subandi and Peter L. Nelson, 'Indonesian Sufism, Signs of Resurgence', in *New Trends and Developments in the World of Islam*, Peter B. Clarke (ed.) (London: Luzac Oriental, 1998).

In Aceh it became so after the end of the GAM conflict. Most of the leaders of such neo-Sufi groups are also affiliated with traditional Sufi orders. While the traditional Sufi orders remain small, probably because of their tight spiritual discipline, neo-Sufi groups gain a wide following. Amran Waly's Majelis Pengkajian Tauhid-Tasawuf (MPTT) is one of the best examples of such neo-Sufi groups in Aceh.[35] Accused of spreading deviant teachings by the Muhasabah Ulama Forum of North Aceh, Amran Waly is actually a neo-Sufi who tries to synthesise wujudiyya Sufi doctrine with orthodoxy. His concern with wujudiyya, although interpreting it in a new way in order to bring it into conformity with orthodoxy, has made him and his tauhid-tasawuf movement the target of accusations of spreading deviant beliefs. In spite of this the MPTT is growing not only in Aceh but also elsewhere in Indonesia and Southeast Asia. There are ulama who consider his teachings deviant, but due to his commitment to uphold Sharia other ulama do not. The latter are mostly those who have relations, directly or indirectly, with Amran Waly's father, Shaykh Muda Waly.

3 Syeikh Amran Waly and Majelis Pengkajian Tauhid Tasawuf (MPTT)

Abuya Shaykh Haji Amran Waly al-Khalidy is one of the most important Sufi leaders in Aceh today.[36] He was born on 21 August 1947 into the family of an important modern-day Acehnese Sufi leader, Abuya Shaykh Muhammad Waly al-Khalidy, better known as Shaykh Muda Waly (1917–1961),[37] leader of the Dayah Darussalam of Labuhan Haji in South

35 Majelis Zikir al-Waliyah, led by Abuya Shaykh Jamaluddin Waly, Amran Waly's stepbrother, is another example of a neo-Sufi group. Emphasising dhikr, it is much smaller than the MPTT: Shadiqin, *Tasawuf Aceh*, 149–151. Shadiqin wrote that its leader is Abuya Professor Muhibbuddin Waly, the eldest son of Shaykh Muda Waly, but Abuya Jamaluddin Waly told me that he led the group. Interview with Abuya Jamaluddin Waly, February 2009.

36 For a brief account of Amran Waly and MPTT see sub-chapter 6 by Moch Nur Ichwan, 'Alternatives to Shariatism: Progressive Muslim Intellectuals, Feminists, Queers and Sufis in Contemporary Aceh', in *Regime Change, Democracy and Islam: the Case of Indonesia, Final Report Islam Research Programme Jakarta* (Leiden: Leiden University, March 2013).

37 He learned religious Islamic knowledge from Abu Hasan Krueng Kalee and Teungku Hasballah Indrapuri and continued his studies in West Sumatera and Mecca. After returning from Mecca he established Dayah Darussalam, Labuhan Haji. On Shaykh Muda Waly see Muhibbuddin Waly al-Khalidy, *Ayah*

Aceh.[38] Hasjmy counted Shaykh Muda Waly as an important leader of the 'Kaum Tua', traditional Muslims in Indonesia resisting the reform movement at the beginning of the 20th century.[39] He was a *khalifa* of the Naqshabandiyya Sufi order.[40] Almost all Naqshabandiyya murshids in Aceh have ties to him and many of the founders of the big dayahs in Aceh which were established after 1945 were his students.[41] Amran Waly learned religious Islamic knowledge from his parents, and then from Abuya Syech Zakaria Labai Sati (West Sumatera) and Imam Syamsuddin (Sangkalan Abdiya), two of Muda Waly's disciples, in subjects such as fiqh, *usul fiqh* (methodology of Islamic law), *'aqida* (theology), *tasawuf*, *mantiq* (logic), and Arabic linguistics.

Amran Waly became a member of the Naqshabandiya order under the guidance of Shaykh Aidarus Kampar, the son of Shaykh Abdul Ghani Al-Kampari, who also granted him the authority to spread Naqshabandiyya and to teach *Majmu' Rasail*, a treatise on the order written by Shaykh Sulaiman Zuhdi at the end of the 19th century. He also learned religious knowledge from Abu H. Daud Zamzami of the pesantren Riadhus Shalihin in Banda Aceh and studied at universities in Aceh and West Sumatera, as well as at the College Islam in Lampuri in Kotabaru in Kelantan, Malaysia, but he did not finish his graduate studies.[42]

Kami Maulana Syeikh Haji Muhammad Waly al-Khalidy (Teungku Syeikh Haji Muda Waly) (Kuala Lumpur: Kulliyah of Laws International Islamic University, 1993).

38 His mother, Raudhatinnur (Ummi Pawoh), was the second wife of Muda Waly. Shaykh Muda Waly had three wives and 14 children (ten sons and four daughters). His first wife was the mother of Muhibbuddin Waly and Jamaluddin Waly, his second of Amran Waly. Among Muda Waly's other children are Ahmad Waly, Harun Ar-Rasyid Waly, Mawardi Waly, Muhammad Nasir Waly and Ruslan Waly, all respected ulama in Aceh: A. Hasjmy, 'Teungku Syekh Haji Muhammad Waly al-Khalidy', in *Ulama Aceh: Mujahid Pejuang Kemerdekaan dan Pembangun Tamadun Bangsa* (Jakarta: Bulan Bintang, 1997), 205–206.

39 Hasjmy, 'Teungku Syekh Haji Muhammad Waly al-Khalidy', 201–208.

40 Nurhayati Razali, 'Peranan Syaikhul Islam Syeikh Muhammad Waly Al-Khalidy dalam Pengembangan Pendidikan Tarikat Naqsyabandiyah di Aceh', *Peuradeun* 1:1 (September 2013), 41–52.

41 On Naqshabandiyya in Indonesia, including Aceh, see Van Bruinessen, *Tarekat Naqsyabandiyah di Indonesia: Survei Historis, Geografis, dan Sosiologis* (Bandung: Mizan, 1992).

42 Hasjmy, 'Teungku Syekh Haji Muhammad Wali al-Khalidy', 205; MPTT, 'Riwayat Pesantren Darul Ihsan', http://mptt.or.id/home/pesantren/item/73-pesantren-darul-ihsan.html.

One of his brothers and also one of his main antagonists was Muhibbuddin Waly, an orthodox Sufi, Naqshabandiyah leader and spiritual adviser of the MUNA. As Shaykh Muda Waly did not grant the title of murshid to his own sons, Muhibbuddin Waly received his from Shaikh Abdul Ghani Al-Kampari, Amran Waly from Shaikh Aidarus Kampar, the son of Syech Abdul Ghani Al-Kampari. It seems that this was the root of their strained relations.

Abuya Shaykh Amran Waly led the dayah Darussalam of his father from 1972 to 1982, and established his own dayah, Darul Ihsan, also in Labuhan Haji, in 1982. Yet, together with his brothers Muhibbuddin and Jamaluddin, he continued to run the dayah Darussalam. Once he was also a politician. He was a legislator of South Aceh from 1982 to 1987.

The Majelis Pengkajian Tauhid Tasawuf Abuya Syech Amran Waly al-Khalidy, or MPTT Abuya Syech Amran Waly al-Khalidy, or simply MPTT was not founded by Shaykh Amran Waly himself, but by a number of his students, who deemed it important that Amran Waly's teachings on tauhid-tasawuf were disseminated.[43] The MPTT was established in 2005 with Amran Waly's dayah as its headquarters, but the pengajian meeting where the initiative was taken was held in February 2001. Its aims are: first, to promote religious practices based on Prophetic traditions or Sharia according to the fiqh of the Shafi'ite school of law; second, to encourage virtue (*akhlaq*) and to come closer to God the Almighty in order to gain insight (*ma'rifa*) into His Oneness (*tauhid*); and, third, to believe (*aqidah*), to witness (*mushahadah*) and to unveil (*kashaf*) the reality of Allah, who is one in His essence (*dhat*), attributes (*sifat*) and acts (*Wahdat al-Wujud Muwahhidah*).[44] Such teachings, according to the MPTT, will enhance humans' love for Allah and His creatures, and lead to Islam and true belief (*iman haqiqi*).

In 2012, the MPTT had branches in more than 13 districts in Aceh, and in some other regions in Indonesia, among them in Java, Sumatra and Sulawesi, as well.[45] In Terengganu in Malaysia Amran Waly's followers founded the Ikatan Pendidikan Tauhid Tasauf (IPTAF – Association of

43 The name Abuya Syech Amran Waly al-Khalidy is attached to the MPTT because tauhid-tasawuf was also taught previously by his brother Prof Muhibbuddin Waly.

44 MPTT, 'Riwayat Pesantren Darul Ihsan', http://mptt.or.id/home/pesantren/item/73-pesantren-darul-ihsan.html.

45 Interview with Tgk. Meflin al-Hasani, Amran Waly's disciple, March 2010 and July 2012.

Tauhid Tasawuf Education), led by Ustaz Mustaffa Kamal bin Hamzah.[46] In its development, it is supported by Syekh Ibrahim Mohammad (Malaysia), Dr Rahimuddin Nawawi Al-Bantani (an ulama from Banten living in Malaysia) and Dr Diauddin Kuswandi (Surabaya). Until 2014, there were three Southeast Asia Ulama Conferences of Tauhid Tasawuf: in Meulaboh, West Aceh (2010), Selangor, Malaysia (2012), and Blang Pidie, Southwest Aceh (2014).

4 Some Aspects of Amran Waly's Teachings

There are three important teachings of Amran Waly which deserve our attention here. They concern Sharia, tauhid tasawuf and *al-Insan al-Kamil* (Perfect Man).

4.1 Sharia and Shariatism

Islamic Sharia in the Aceh qanuns is defined as 'Islamic guidance in all aspects of life'. These few words signify that the implementation of Sharia should not be 'partial', but comprehensive (*kaffah*), covering the private and the public spheres. However, hitherto implementation is far from comprehensive; it covers only Islamic clothing, intoxicants and the like, gambling, and illicit relations between men and women who are not married to one another. The reason is that before the state can enforce Sharia norms, qanuns have to be drafted and these qanuns have to be agreed upon and ratified by the legislative assembly and the governor before they become effective.

Moreover, the Sharia euphoria has neglected the inner dimension of Islam and marginalises Sufi groups. Amran Waly does not oppose Sharia as a divine norm, but he rejects the 'qanunisation' of Sharia and the neglect of the esoteric dimension of Islam. He suggests that Muslims should implement Sharia in their daily life, with or without qanuns, and that Sharia is not the end objective. It is the first step towards the ultimate goal, that is God. His notion of Sharia is close to that of fiqh. Sharia is related to religious devotion, like prayer, fasting, paying the *zakat*, and the pilgrimage to Mecca; and the relations between human beings (*mu'amalah*), like trade and financial management. He suggests that after conforming to Sharia one should try to progress to the more advanced

46 Interview with Ustaz Mustaffa Kamal bin Hamzah, head of the IPTAF Terengganu, in Meulaboh, 9 March 2010.

stages of haqiqa and ma'rifa; two fundamental aspects of tasawuf.[47] Tasawuf purifies the heart of all relations other than that with Allah. With a purified heart, affection follows, and good relations with God and with all fellow creatures on earth are secured. 'Performing Shari'a without haqiqah will lead to *fasiq* [sinful behavior]. Fasiq will lead to hypocrisy. Hypocrisy causes *fitnah* [chaos] and many problems which cause destruction in this world.'[48]

Moreover, Sharia is aimed at eliminating *shirk jali* (apparent polytheism), and haqiqa at eliminating *shirk khafi* (hidden polytheism).[49] The latter is much harder to accomplish than combating apparent polytheism by applying Sharia. Sharia is the basic foundation which can not do without the higher religious experience of divine reality. This means that a private religious experience is better than a public display of religiosity which lacks the deeper dimension of Islam.

Meeting members of the MPTT made it clear to me that what is called *'amal* (good deed) is a spiritual exercise, rather than a social activity. It is usually understood in spiritual practice terms. They are critical of what they refer to as the 'qanunisation of Sharia.'[50] Sharia is divine but qanunisation of it could trivialise it and even obstruct the path to the spiritual realm and to deeper knowledge of God. Such critical views of a Sharia-oriented understanding of Islam are typical of Sufism. Yet a close reading of their views shows that what they perceive as Sharia is merely fiqh, and does not serve as 'Islamic guidance in all aspects of life' as reflected in the qanuns or 'way of life' as understood by most Islamists.

4.2 Tauhid-Tasawuf

Sufism, according to Amran Waly, is based essentially on the 'science' of tauhid-tasawuf. About the relationship between tasawuf and Sharia he is clear: '[t]asawuf is the spirit (*ruh*) of Sharia, without which law cannot be implemented in a more consistent way, strong belief and high moral standards can not be achieved, and the Prophetic traditions cannot be followed'.[51] He believes that Sufism can enhance moral behaviour and

47 On the notions of ma'rifa in Sufism see Reza Shah-Kazemi, 'The Notion and Significance of Ma'rifa in Sufism', *Journal of Islamic Studies*, 13:2 (2002), 155–181.

48 Amran Waly, *Ajaran Tauhid-Tasawuf*, 8.

49 Abuya Shaykh Amran Waly, 'Soal-jawab seputar Tauhid-tasawuf Abuya Syech Amran Waly', MPTT brochure (10 October 2009).

50 Interviews with Meflin, July 2011, and Abdul Qadir, January 2012.

51 Abuya Shaykh Amran Waly, 'Mukaddimah', in Ismail al-Harawi, *Manazil al-Sairin*, trans. Abuya Shaykh Amran Waly (Labuhan Haji: MPTT, 2012), v.

should be taught to all Muslims; ulama, bureaucrats and lay people alike. He disagrees with most Sharia ulama who are of the opinion that Sufism should only be taught to a limited number of people, people with mature religiosity, and not to lay people.[52]

Tauhid-tasawuf is an important concept in Amran Waly's thought. It underlies the whole teaching he developed in the MPTT. In a brochure, *Uraian/Pembahasan dalam Pengkajian Tauhid Tasawuf untuk dapat Disampaikan dan Dipahami bagi Umat Islam* (Explanation about Tauhid-Tasawuf to be Delivered or Understood by the Islamic Community), the study of tauhid-tasawuf is defined as: 'The study of the knowledge of tauhid by individuals who have purified their heart from being closer to others than Allah. He or she views Allah as pure from new things, and is able to disregard outer causes based on Allah's eternal knowledge and Allah's eternal laws.'[53]

The concept of tauhid-tasawuf is a critique of the understanding of tauhid which emphasises the belief (*i'tiqad*) in the existence of Allah and His divine attributes, without which *'ibada* (devotion) is not accepted. This is not wrong, but it is not enough. To eliminate hidden polytheism and reach the real tauhid it should be complemented with the Sufistic teachings of haqiqa and ma'rifa.[54]

Haqiqa and ma'rifa are related to the concept of tauhid (monotheism) and shirk (polytheism). Knowing the Essence of God (haqiqa) is aimed at eliminating hidden polytheism (shirk khafi). Hidden polytheism also leads to all kinds of negative human behaviour, foremost among these *ananiyya* (egoism), *'ujub* (vanity) and *riya'* (to deliberately present oneself to be virtuous or good natured in order to get respect, admiration or a good reputation). Ananiyya, 'ujub and riya' can only be attributed to God. Men or women who behave in such a way are regarded as claiming to be God, and that is shirk. All such behaviour may lead to hypocrisy and *hubb al-dunya* (love of the world). Meanwhile, apparent polytheism (*shirk jali*) can be eliminated by practising Sharia.[55] Knowing the substance of Sharia, haqiqa and ma'rifa means knowing the true tauhid (*ma'rifat tauhid yang hakiki*). Such knowledge would encourage 'a weak man or

52 Meflin, 'Amran Wali: Kesufian Perbaiki Akhlak Kita', *Gema Baiturrahman Online*, 5 June 2010, http://www.gemabaiturrahman.com/2010/06/amran-wali-kesufian-perbaiki-akhlak.html.

53 Abuya Syech Amran Waly, 'Uraian/Pembahasan dalam Pengkajian Tauhid Tasawuf untuk dapat Disampaikan dan Dipahami bagi Umat Islam', MPTT brochure (no date), 1.

54 Amran Waly, 'Soal-jawab seputar Tauhid-tasawuf Abuya Syech Amran Waly', 1.

55 Ibid.

woman to become a true Muslim so that he or she can be on friendly terms or associate with both the Creator (*khaliq*) and creatures (*makhluq*), and have a noble character (*akhlaq*) and affection. The result will be the unity of the commmunity (*umma*) who follow the Prophet and are true Muslims.'[56]

According to Amran Waly, it is such knowledge that has been neglected by most ulama in Aceh, Indonesia and Southeast Asia. That is why he makes such a great effort to develop and spread Tauhid-Tasawuf teachings through the MPTT in Southeast Asia.

4.3 *Wahdat al-Wujud* and *al-Insan al-Kamil*: Reinterpreting Ibn ʿArabi through Al-Jili

In November 2009, Amran Waly published *Sekelumit Penjelasan tentang Ajaran Tauhid-Tasawuf Abuya Syekh H. Amran Waly & Penjelasan beberapa ucapan ʿAbdul Karim al-Jili dalam Kitabnya al-Insanul-Kamil fi Maʿrifatil-Awakhir wal-Awa'il* (Brief Clarification of the Teachings of Tauhid-Tasawuf of Abuya Syekh H. Amran Waly and an Explanation of a number of Remarks by ʿAbd Karim al-Jili's in his Book al-Insanul-Kamil fi Maʿrifatil-Awakhir wal-Awa'il). The book was controversial because it discusses the opinions of ʿAbd Karim al-Jili (d. 1428),[57] whom many Sharia ulama accuse of expressing the 'deviant' teaching of *al-Insan al-Kamil* which in fact contains the teaching of Ibn ʿArabi of wahdat al-wujud. ʿAbd Karim bin Ibrahim al-Jili, a Sufi master from Yemen, was a descendant of the famous Sufi ʿAbd al-Qadir al-Jilani (d. 1166) and entered the Qadiriyya order. He was a disciple of Shaykh Sharaf al-Din Ismail

56 Ibid.

57 ʿAbd Karim bin Ibrahim al-Jili wrote about 30 books and treatises, of which *al-Insān al-Kāmil fī Maʿrifat al-Awākhir wa al-Awā'il* is the best known. It is based on Ibn ʿArabi's concept of Insan Kamil in which he discussed three stages for the perfect man. The first, *bada'ah* (beginning), when a human is given his divine attributes; second, *tawassut* (intermediate stage), when the perfect human being, who is both human and divine, can understand both human and divine realities and receive all knowledge (both seen and unseen); third, *khitam* (end), when the perfect human being is given power that can be used in the natural world and gives him or her power over any other being; Reynold A. Nicholson, *Studies in Islamic Mysticism* (Richmond, Surrey: Curzon Press, 1994), 81; H. Ritter, 'Abd al-Karīm, Kutb al-Dīn b. Ibrāhīm al-Jīlī', *Encyclopaedia of Islam*, 2nd ed., P. Bearman, T. Bianquis, C.E. Bosworth, E. van Donzel, and W.P. Heinrichs (eds.) (Leiden: Brill, 2014). Reference. 08 July 2014, http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/abd-al-karim-kutb-al-din-b-ibrahim-al-djili-SIM_0099.

al-Jabarti (d. 1403–1404), from Zabid, Yemen, whose name is included in the chain of transmission (*sanad*) of the Qadiriyya in Indonesia.[58] About the influence of al-Jili's al-Insan al-Kamil, Nicholson wrote that 'the Insānu'l-Kāmil exerted a powerful influence upon Indonesian Sufism'.[59] Al-Attas, Osman bin Bakar, and Van Bruinessen agree with this.[60] Osman bin Bakar points out that although Al-Fansuri found his Sufi inspiration in Ibn ʿArabi's Wahdat al-Wujud, his writings also reflect familiarity with the works of Al-Jili, with particular reference to his teaching on the al-Insan al-Kamil.[61] Thus, Amran Waly's adoption of al-Insan al-Kamil indicates a continuing influence of al-Jili, and through him of Ibn ʿArabi's wahdat al-wujud, in Aceh to this day.

In the *Sekelumit Penjelasan tentang Ajaran Tauhid-Tasawuf*, Amran Waly does not explain all aspects of al-Jili's teachings. Instead, he concentrates on four statements which deal with Sharia, tariqa, haqiqa and maʿrifa:[62]

1. *Allah rabbun Muhammad ʿabdun fi al-sharia* (Allah is Master, Muhammad is servant in the Sharia).
2. *Allah dhatun Muhammad sifatun fi al-tariqa* (Allah is Essence, Muhammad is attribute in the tariqa).
3. *Allahu ruhun Muhammad jasadun fi al-haqiqa* (Allah is Spirit, Muhammad is body in the haqiqa).
4. *Allah Muhammad fi al-maʿrifa* (Allah is Muhammad in the maʿrifa).

Amran Waly carefully comments on these statements, trying to get rid of Wahdat al-wujud connotations.

On the first statement he says, 'We are advised to be obedient to Allah by paying attention to the boundaries of law, because Sharia is law containing commands and prohibitions which are an obligation and must be followed.'

On the second statement he says, 'Muhammad is presented here as attribute, because an attribute (*sifat*) always needs an essence (*dhat*), to which an attribute belongs'. He rejects the interpretation that Muhammad

58 Martin van Bruinessen, 'Shaykh ʿAbd al-Qadir al-Jilani and the Qadiriyya in Indonesia', *Journal of the History of Sufism*, 1–2 (2000), 361–395.

59 Nicholson, *Studies in Islamic Mysticism*, vii.

60 Martin van Bruinessen, *Tarekat Naqsyabandiyah di Indonesia: Survei Historis, Geografis, dan Sosiologis* (Bandung: Mizan, 1992).

61 Osman bin Bakar, 'Sufism in the Malay-Indonesian World', 283–285.

62 The author follows here the classical phases of gaining mystical knowledge by following the Sharia, followed by the path (tariqa), leading to the Essence (haqiqa), ending in deeper knowledge or gnosis (maʿrifa).

is the attribute of God, or that Muhammad is the manifestation of the existence of God, or that God becomes Muhammad.

On the third statement he said that it is 'a symbol of a person who has been overwhelmed by the Light of God's existence, whose dhat is without *kaifiyat* (properties), infinite and incomparable, so that actions, attitudes and dhat of Allah manifest (*tajalli*) factually in himself, after his existence has disappeared in his view. This is the *maqam* of *fana'* ([mystical] stage of annihilation). The use of *fana'* is to eliminate *ananiyyah* (egoism).'

The fourth statement he translates as 'Allah is the *mutawalli* (guide) of Muhammad'. He argues that the word mutawalli is actually omitted in the Arabic original sentence. For in Arabic grammar, it is possible for the first substantive in a genetive construction (*al-mudaf*) to be omitted in favour of the second noun in the genitive construction (*al-mudaf ilayhi*). This is called *hadhf al-mudaf 'ala l-mudaf 'ilayh*. He compares this statement linguistically with Surat Yusuf (12:82), *wa-s'al al-qaryata* (ask the village), which should be read as *wa-s'al ahl al-qaryah* (ask [the people of] the village). The word *ahl* (people) is in this example the omitted *mudaf*. He says, 'Allah guides Muhammad or people in this life by giving them guidance, well-being (*taufiq*) and help (*ma'unah*)'.[63] He also says that 'in this stage, a Sufi has reached *baqa'* (eternity) after *fana'* (annihiliation). He will be always with Allah, and not with his own bad desires (*hawa nafsu*).' The person who has reached this state is called *khawash al-khawash* (the special among the specials), and therefore he or she becomes an *insan kamil* (perfect human being).[64]

According to Amran Waly, these statements signify the 'spiritual migration of a human being to his or her God. Anyone who follows these statements properly will reach the status of a perfect human being.'[65] In these statements Muhammad is a symbol of a perfect human being; the term Muhammad refers to a perfect human being in general, and not necessarily to the Prophet Muhammad. Amran Waly also said that 'those who do not understand correctly Abd al-Karim al-Jili's teachings or statements will not get the Light of Knowledge (*nur ma'rifa*). They should no longer claim to be a leader of tariqah, or the spiritual path, like some persons do who claim to be tariqa leaders or false murshids.'[66]

Amran Waly also quotes a controversial interpretation by al-Jili of the Qur'anic verse *Qul huwa Allahu ahad*. This verse is usually translated as 'Say, Muhammad, He is Allah the only one.' Al-Jili suggests that the word

63 Amran Waly, *Sekelumit Penjelasan*, 6.
64 Ibid., 7.
65 Ibid., 3.
66 Ibid., 3.

huwa (he) does not refer to Allah, but to the 'reality of man' (*haqiqa insan*). But Amran Waly said that it does not mean that 'the reality of man is Allah'. The real reality of man is illumination (*faid*) or shadow of God, which does not exist independently.[67]

The above views must be seen from the perspective of the already mentioned aim of the MPTT: 'to believe, to witness and to unveil the reality of Allah, who is one in His Essence, attributes and acts'.[68] By inserting the concepts witnessing (*mushahada*) and unveiling (*kashaf*) in his teaching, Amran Waly tries to synthesise wahdat al-wujud with *wahdat al-shuhud* (unity of witnessing).[69] By such effort, Amran Waly claims that his understanding of al-Jili's wujudiyya is in line with orthodoxy and cannot be considered deviant. Perhaps the word *muwahhidah*, meaning one who believes in the oneness of God (tauhid), inspired him to choose the name 'tauhid-tasawuf'. It is this reinterpretation of al-Jili's wujudiyya which was misunderstood by and is widely debated among Sharia ulama and orthodox Sufi ulama in Aceh, which would cause Amran Waly and the MPTT much trouble.

4.4 Synthesising al-Jili with Ibn Ataillah and al-Harawi

Apart from teaching al-Jili's *Al-Insan al-Kamil*, Amran Waly also teaches *Hikam* (Maxims) and *Manazil al-Sa'irin ila Rabb al-'Alamin* (Stations of the Seekers towards the God of the Universe), the works of the great orthodox Sufis Ibn Ataillah al-Sakandari (al-Iskandari) (d. 1309) and Abu Ismail Abdullah ibn Muhammad al-Ansari al-Harawi (d. 1089) respectively. He teaches *Al-Insan al-Kamil* to a limited number of disciples belonging to his inner circle, and *Hikam* to a broader audience who have basic knowledge of Sufism, and *Manazil al-Sa'irin* to a still wider group of laymen. Amran Waly translated *Manazil al-Sa'irin* into Indonesian.

The use of *Hikam* and *Manazil al-Sa'irin* by Amran Waly has been welcomed by the ulama and society at large. There have been no negative reactions. MPTT meetings have been attended by hundreds of people, and sometimes by more than a thousand. The reason must be that both Ibn Ataillah and Ibn Ismail al-Harawi are orthodox Sufi ulama. Why Amran Waly bases this teaching upon these three Sufis is not clear. Perhaps there is a pragmatic consideration, that is to address the controversial teachings

67 Amran Waly, *Sekelumit Penjelasan*, 7.

68 MPTT, 'Riwayat Pesantren Darul Ihsan', http://mptt.or.id/home/pesantren/item/73-pesantren-darul-ihsan.html.

69 Contrary to wahdat al-wujud which is the unity of all being in an ontological sense (monism), wahdat al-shudud is the mystical experience of this unity.

of al-Jili he adopted, but, more than that, there are substantial similarities of Sufi teaching, which at the end can be interpreted in the perspective of *wujudiyya muwahhida*. *Hikam* is a widely read and well-accepted Sufi book in Aceh and Indonesia. Ibn Ataillah also never condemned Ibn ʿArabi's teaching of wahdat al-wujud and defended Ibn ʿArabi in his debate with Ibn Taymiyya (d. 1328).[70] Al-Harawi's teachings are regarded as a reformed Sufism. Ibn Qayyim al-Jawziyya (d. 1350), Ibn Taymiyya's disciple, wrote a book, *Madarij al-Salikin*, which is based on al-Harawi's *Manazil al-Saʾirin*. It seems that Amran Waly wants to show Sharia ulama and orthodox Sufi ulama and society that his opinions are not deviant.

5 Fatwa against Amran Waly and His Movement

A serious confrontation between Amran Waly and the Sharia ulama occurred after Amran Waly had published his Brief Clarification in November 2009. A few months later on 15 May 2010 a meeting was held in Pantonlabu in North Aceh to commemorate the anniversary of the Dayah Malikussaleh of Teungku Ibrahim Bardan, at that moment chairperson of the HUDA. He and the MPU of North Aceh used the occasion to discuss Amran Waly's book. Muhibbuddin Waly delivered a speech on 'The Controversy over the Doctrine of Wujudiyyah in Aceh's History'.[71] In its written version Amran Waly is not mentioned, but it seems that he was in the actual speech. When I asked Muhibbuddin Waly a few months later, he told me that he considers what his brother is teaching as deviant.[72]

What is certain is that the book was indeed discussed at the same school during a meeting on 15 May 2010, attended by a number of popular ulama. As reported in *Santri Dayah*, Abu Tumin said, 'Wahdat al-wujud, which is wrong, is that what was taught by Hamzah Fansuri and Syamsuddin Sumatrani. Abuya Muda Waly never taught wahdat al-wujud, he taught wahdat al-shuhud. Wahdat al-wujud is divided into two: that which leads to *ittihad* and that which leads to *hulul*. Ittihad is the fusion of two realities into one form, while hulul is the manifestation of Allah in man.'[73] Ibrahim Bardan said that Abu Yazid al-Bistami (d. 874) said that one should not believe that a person is reaching haqiqa if he

70 Stephen Schwartz, *The Other Islam: Sufism and the Road to Global Harmony* (New York etc.: Doubleday, 2008), 127–128.

71 The paper was published in the magazine *Santri Dayah*, VII (05, 2010), 2–8.

72 Interview with Abuya Muhibbuddin Waly, July 2011.

73 *Santri Dayah*, 7: 5 (2010), 9.

does not perform Sharia properly, 'even if he would fly to the sky'. He also quoted Ibn Hajar (d. 1567) that Ibn 'Arabi is a Sufi who believes not in wahdat al-wujud, but wahdat al-shuhud. About Amran Waly, he said, 'No one said that Abu Amran [Amran Waly] is deviant, but what is taught by Abu Amran could not be grasped by common people.' Abu Mustafa Puteh said, 'There is no need to look at history. That is their own business. What is important for today is that wahdat al-wujud is not allowed.'[74] Two conclusions and six recommendations were issued which were referred to by the media as 'the Fatwa of the MPU of North Aceh'. One of the conclusions was that wahdat al-wujud containing *ittihad* and *hulul* was deviant and misleading (*sesat dan menyesatkan*). Of the recommendations points 1, 2 and 4 are the most relevant for our discussion. They urged the Aceh government in the implementation of Sharia to stick to the opinions of the Shafi'ite school of law; to keep an eye on and prosecute people who publish in whatever form ideas which could contaminate the beliefs and moral standards of the Islamic community; and to act in the same way against any group which spreads deviant teachings in society.[75]

Although Amran Waly is not mentioned by name in the fatwa, during the meeting his name was dropped and, therefore, the fatwa implicitly refers to him. The meeting also concluded that the content of Amran Waly's book is dangerous for people's belief and that it could lead to wahdat al-wujud. Ibrahim Bardan called on people to hand in their copies to the MPU to have them burned.[76]

6 The MPTT's Ulama Meeting of 2010: Sharia Ulama's Intervention

What the effect was of the fatwa became clear when the MPTT wanted to organise a gathering of its ulama in 2010. Sharia ulama, through the MPU and the involvement of the governor and police, intervened and prevented it from taking place. Later they turned an MPTT conference into a Sharia-oriented meeting.

In 2009, some months before the fatwa, the MPTT had asked the MPU for a recommendation to hold a Southeast Asian congress on Tauhid-Tasawuf in Banda Aceh. This is normal procedure. All public

74 *Santri Dayah*, 7: 5 (2010), 9.

75 *Santri Dayah*, 7: 5 (2010), 8. The usual translation of *hulul* is incarnation.

76 'MPU Larang Peredaran Buku Syeh Amran Wali', *Serambi Indonesia*, 26 November 2009.

events in Aceh require such a recommendation besides permission by the police. The MPU declined because, as it stated in a letter dated 23 July 2009, it was not sure what Abuya Amran Waly exactly taught in the MPTT. In response the MPTT invited the MPU to attend one of its regular religious meetings in which he discussed Ibn Ataillah's book *al-Hikam*, to find out whether his teaching is deviant, but the MPU leaders ignored the invitation. Probably they were well aware of Amran Waly's religious ideas and could not agree with them.

A few monts later the MPTT did hold its first Ulama Conference attended by its followers from various parts of Aceh and Malaysia. It took place in Meulaboh on 9–10 March 2010. The MPU had issued its recommendation but had made the condition that it should be a Sharia conference, and not a Sufi one. It had also enforced a Sharia-oriented programme. All speakers were Sharia ulama, and Amran Waly and MPTT guests from abroad were not allowed to deliver speeches. The official conference, with its morning and afternoon sessions, seemed a success. However, the MPTT members organised their own unofficial Sufi programme, held after the early morning and sunset and evening prayers, as a hidden resistance to the intervention of the state's Sharia-oriented ulama. I was present and regularly heard participants oppose the official Shariatisation. There was a feeling of being oppressed by the Sharia ulama and the government with its 'simplistic' policies, as they saw it, of Islamisation taking the form of formal Shariatisation. The implementation of Sharia in Aceh was dismissed as trivial and artificial, because the qanuns and official Sharia discourse neglected the richness of the esoteric dimensions of Islam.[77]

This was not the last Ulama Conference of the MPTT. Two others were held, one in Selangor in Malaysia in 2012, and another one in Abdya in West Aceh in 2014. Unlike the one in 2010, these were real Sufi conferences, in which Sufi teachings, including wujudiyya, were discussed openly without fear.

7 Political Alliance: Struggle for Existence

After the issue of the fatwa which declared his views deviant, Amran Waly actively looked for political patronage and extended his networks. His alignment with the regent of West Aceh enabled him to hold the Ulama Congress in Abdya. Regent Ramli supported the meeting politically and financially. This alliance is reflected in the slogan of

77 Interview with Tgk. Zainuddin, Amran Waly's disciple, Meulaboh, March 2010.

Meulaboh as 'the city of Tauhid-Tasawuf'. Undeniably, the regent of West Aceh looked for religious legitimacy from Amran Waly and MPTT to support his Islamisation policy. He issued Regent Regulation (Peraturan Bupati) No. 5/2010 which forbids women to wear tight trousers. He was criticised by feminist and human rights activists as well as progressive Muslim intellectuals. Some ulama, among them Alyasa' Abubakar, even considered the regulation unnecessary, pointing out that trousers are the traditional attire of Acehnese women.[78]

Amran Waly also cemented ties with former Abdya regent, Akmal Ibrahim (who wanted to run for regent for a second time), the present Abdya regent, Jufri Hasanuddin, the South Aceh regent, Husein Yusuf, regent of Galus, Ibnu Hasim, and vice regent of Pidie, Nazir Adam, to mention a few. Amran Waly was usually invited to deliver speeches before the regency officials. He and the MPTT stressed that this belonged to the realm of da'wah and thus was part of the duties religion demanded from them, and not a political activity.[79] Yet it is such political alliances which were instrumental in strengthening Amran Waly's influence in society and among the political elite and which have protected him and his Tauhid-Tasawuf movement against the possible consequences of the fatwa and other negative charges.

During the governorship of Irwandi Yusuf (2007–2011), Amran Waly failed to get support from the provincial government. This was understandable, because Irwandi Yusuf as ex-GAM combatant was closer to Muhibbuddin Waly and the MUNA (an ex-GAM member created the ulama council), than to Amran Waly and the MPTT. For the same reason Irwandi Yusuf's successor, Zaini Abdullah, also does not support him. However, Malik Mahmud, Wali Naggroe (traditional leader) of Aceh since December 2013, does. He opened the Southeast Asian Ulama Conference in Abdya in 2014. The conference was funded by the administration of Abdya, which spent about 1.2 billion rupiah. The fact that the MPTT is not part of the local government but was able to get such a large sum of financial support could not be seen as other than political success. Partly because of such political backing, the Tauhid-Tasawuf movement has survived until today, has even spread in Aceh and has gained new followers elsewhere.[80]

78 Interview with Prof. Alyasa' Abubakar, Banda Aceh, May 2011.

79 Interview with Abdul Qadir, Amran Waly's disciple, January 2012.

80 Before the 2014 election, Amran Waly proposed the need to create, or even convert the MPTT into a local political party. Yet, most members disagreed with the idea on the grounds that it is better for the MPTT to remain what it is, a neo-Sufi movement. Also, not all members have similar political views. However,

Amran Waly (3rd from right) with Shaykh Muhammad Fadil Al-Jaelani (4th from right) and the Wali Nanggroe of Aceh (2nd from right) during "Muzakarah Tauhid Tasawuf" 2014. Picture courtesy of Harian Aceh.

8 Conclusion

The mainstreaming of Sharia through the official implementation of Sharia in Aceh for more than a decade has marginalised Sufism, especially heterodox Sufism. Sharia ulama have been given ample opportunity to define Islam in the region from above. Through the state ulama institution MPU they have issued Sharia-oriented fatwas, some of which are against Sufism considered to be heterodox. Sharia ulama have sometimes cooperated with orthodox Sufi ulama to marginalise heterodox or allegedly heterodox Sufi ulama and groups. What brings them together is Sharia. The consequence is that because of accusations of deviancy by Sharia ulama and orthodox Sufi ulama, most heterodox Sufi groups have a limited following. The issue of deviancy is a sensitive one in Aceh. Many of those labelled as such have been attacked by society. However, Amran Waly and the MPTT are an exception. Their ideas attracted new followers. This

a new wing organisation was established, called Persatuan Tarbiyah Islamiyah Perjuangan (Perti-P). It is intended to be an alternative to the existing Persatuan Tarbiyah Islamiyah (Perti), a national socio-religious organisation introduced in Aceh by Shaykh Hasan Kueng Kale. Shaykh Muda Waly was adviser to the Perti. Amran Waly was of the opinion that the Perti needed reform. Because it was impossible to accomplish this, he established Perti-P. Personal communication with T. Misbah Lembong, adviser to the Perti-P, January 2014.

reflects the popular need for not only a legalistic understanding of Islam, but also for a religious spiritual experience.

There are at least four reasons why the MPTT survived the charges and even grew. Firstly, as the son of Shaykh Muda Waly Amran Waly has 'blue blood'. People respect him because they respect his father. Secondly, he has been supported by a number of orthodox Sufi ulama, most of whom have relations directly or indirectly with Shaykh Muda Waly and his Darussalam dayah, who do not consider his teachings to be deviant – although some say that they should not be taught to lay people. Thirdly, Amran Waly synthesises al-Jili's teachings with those of orthodox Sufism, that is, with the teachings of the great orthodox Sufis Ibn Ataillah and Abu Ismail Abdullah Al-Ansari al-Harawi, which gives his teachings an orthodox touch. Fourthly, his alignment with members of the political elite has provided political protection and patronage. The fact that the third Southeast Asian MPTT ulama conference was supported politically and financially by the district administrations indicates that this political alignment contributed to the survival of the movement. The negative reaction of some Sharia ulama and traditional orthodox Sufi ulama must be seen as the continuation of the long conflict between Sharia ulama and Sufi ulama in general, and the alignment between Sharia ulama and orthodox Sufi ulama against heterodox Sufi ulama in particular. Nevertheless, the existence of orthodox and heterodox Sufisms, although with the marginalisation of the latter and the synthesis of both, indicates that Acehnese implementation of Sharia is not as comprehensive as its slogan suggests. The long Acehnese history has shown that, despite shariatism hegemony, there always is room for Sufism.

8 Cultural Resistance to Shariatism in Aceh

Reza Idria

1 Introduction

In this contribution I will analyse some forms of cultural resistance to Sharia in Acehnese society, but it is impossible to talk about the roots of the implementation of Sharia[1] in contemporary Aceh, a province situated in the western part of the Indonesian archipelago, without referring to the political situation in Indonesia after the fall of General Suharto. Political turbulence brought to an end the New Order government – the longest ruling regime in the modern history of Southeast Asia – on 21 May 1998. The dramatic resignation of Suharto, followed by the independence of Timor Leste, caused a serious challenge to the unity of the Republic. Some provinces also demanded referenda (on either remaining in the Republic or becoming fully independent), and these included Aceh, Papua, Banten, Maluku and Riau.

In Aceh, soon after the collapse of the Suharto regime, a series of demonstrations took place demanding a referendum to further their desire for secession from the Republic.[2] A separatist group, the Free

1 Sharia is an Arabic term, literally meaning 'path to water' and in the religious sense (Islam) means 'duty to God'. Cf. M.B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: ISEAS Publishing, 2008), ix. Sharia normally refers to legal practices or living law as a sort of Islamic way of life on the basis of two main sources in Islam, the Qur'an and the Hadith. However, the formulation of Sharia differs from one Muslim country to another. In the context of Aceh, Sharia can be an ambiguous term, pertaining to (1) Sharia in the normal sense, i.e. Islamic law; and (2) Sharia in the sense of the government's policy and regulations in relation to religious matters. The Sharia resistance that is the focus of this chapter mainly contests the second term. In short, the resistance to Sharia discussed here is not resistance to Islam and Sharia as such, but rather resistance to the authority's interpretation and tasks in formulating regional regulations, which they label as Sharia and in accordance with Islamic teachings.

2 It was on 8 November 1992 that two million Acehnese gathered in front of Masjid Raya Baiturrahman, Banda Aceh, to demand a referendum for Aceh. Led by several associations of Acehnese student activists and SIRA (Centre of Information

Aceh Movement (Gerakan Aceh Merdeka, GAM), gained popularity.[3] Since the arrival of the *Reformasi* era throughout Indonesia in 1998, GAM had been increasing its rebellious activities in many parts of Aceh. Needless to say, the GAM soldiers had much to benefit from in the unstable political situation at the national level. A series of guerilla attacks on the Indonesian army, as well as massive propaganda about the coming era of independence in Aceh, promoted its cause. The loss of Timor Leste after the referendum forced the government of Indonesia to find another 'soft' solution. The central government thus avoided the options of either accepting the Acehnese demand for the referendum or again using military oppression to tackle the Aceh case.[4] Neither option would provide benefits to the central government at that time. In particular, the first option could trigger similar demands from other regions. Jakarta might also consider that nearly every Acehnese was strongly against the government and supported GAM at that moment. Therefore, religious identity, which is historically and culturally central to the Acehnese, became a valuable asset to be exploited by the Indonesian government, just as the first Indonesian president, Sukarno, used it to suppress the Acehnese rebellion in 1960s.[5] Understanding the political situation, both

for the Aceh Referendum), this provocative action forced the central government in Jakarta to take advanced steps to reduce potential chaos.

3 The Free Aceh Movement (GAM), also known as the Aceh Sumatera National Liberation Front (ASNLF), was declared by Hasan Muhammad di Tiro in 1976. About the early formation of this rebellious movement see Hasan Muhammad di Tiro, *The Unfinished Diary of Tgk. Hasan Tiro*, (ASNLF, 1981); see also Tim Kell, *The Roots of Acehnese Rebellion 1989–1992* (Ithaca: Cornell Indonesian Modern Project, 1995). For a comprehensive study about the conflict and the roots of the peace process in Aceh after the tsunami of 2004 see Anthony Reid, *Verandah of Violence, the Background to the Aceh Problem* (NUS Publishing & Seattle: Singapore University Press & University of Washington Press, 2006).

4 In order to quash the GAM rebellion, Suharto declared Aceh to be a Military Operation Zone (DOM). During this period (1989–1998), some regions of Aceh such as Pidie, Aceh Utara (North Aceh) and Aceh Timur (East Aceh) became mass killing fields. Thousands of people were killed, raped and tortured. See Al-Chaidar, *Aceh Bersimbah Darah: Mengungkap Penerapan Status Daerah Operasi Militer (DOM) di Aceh 1989–1998* (Jakarta: Pustaka Al-Kautsar, 1998). Later on, President Megawati was responsible for human rights violations in the region after she declared martial law in the province of Aceh in 2003.

5 As in 1953, Aceh started to confront the Indonesian government. Teungku Daud Beureueh led the struggle and declared Aceh to be part of the Darul Islam or Negara Islam Indonesia (the Indonesian Islamic State) under the Imam SM Kartosoewiryo. The conflict ended after Sukarno offered Aceh special status, including local government rights to implement Islamic law. See Nazaruddin

in the past and the present, will lead us to understand why some Acehnese Muslims are now fighting against 'Islamic law'.

To understand why the Sharia proposal became an integral part of the response to the political situation in Aceh, particularly after the fall of Suharto, one must look closely at the activities of the Free Aceh Movement during the war. Although many researchers argue that GAM had already been transformed into a non-religious movement,[6] it was clear at the time of conflict that many local GAM combatants tried to convince the people of Aceh that their struggle was a struggle along the path of God (*jihad fi sabilillah*), one that sought to bring a victory for Islam in Aceh.[7] It was important for GAM to reject being labelled as an Islamic separatist group if they wanted to gain international support; however, at the local level they needed Islam to gain adherents. It is evident that the contradiction and ambiguity of GAM propaganda were taken into consideration by the central government when formulating a counter-strategy to delegitimise the rebellion.

Thus, the central government proposed a special approach to the province of Aceh. The government first issued Law (UU) No. 44/1999 on the special status of the province of Aceh, concerning religion, *adat* (custom) and education. This was followed two years later by the issue of Law UU No. 18/2001. The latter granted special autonomy to Aceh and allowed Sharia to be implemented.[8] These new regulations granted

Sjamsuddin, *The Republican Revolt: a Study of the Acehnese Rebellion* (Institute of Southeast Asian Studies, 1985). See also C. van Dijk, *Rebellion under the Banner of Islam: the Darul Islam in Indonesia* (The Hague: M. Nijhoff, 1981).

6 About the notion of transformation of the rebellious movement see for example Edward Aspinall, *Islam and Nation: Separatist Rebellion in Aceh, Indonesia* (California: Stanford University Press, 2009); see also Kirsten E. Schulze, *The Free Aceh Movement (GAM), Anatomy of a Separatist Organization* (Washington DC: East-West Center, 2004). The European-based GAM leaders, mainly in Sweden and Norway, objected to the use of the terms Islam and jihad and showed hesitance about applying Sharia law in Aceh. Most of them used terms such as 'historical consciousness' (*kesadaran sejarah*) or 'historical duty' (*tugas sejarah*), if asked about the spirit behind the struggle for independence. However, according to some interviews I conducted prior to the Helsinki Peace Agreement, many local combatants stressed in public their convictions about jihad and a victory for Islam as goals of independence.

7 However, one could also argue that the form of jihad as understood by GAM differs from the Acehnese jihad that was waged against the Dutch during the colonial era. About this notion see for example James T. Siegel, 'The Curse of the Photograph: Atjeh 1901', *Indonesia*, no. 80 (October, 2005), 21–38.

8 See Taufik Adnan Amal and Samsu Rizal Panggabean, *Politik Syariat Islam dari*

broader powers to the provincial government to implement the so-called 'comprehensive Islamic Law' or Sharia (*Syari'at Islam*) and the special right to establish a Sharia court (*Mahkamah Syari'ah*) and the Official Department of Sharia (*Dinas Syari'at Islam*). It also changed the name of the province from Aceh to Nanggroe Aceh Darussalam. According to some local elites, the new name sounds more Islamic, peaceful and independent. Unfortunately, these new regulations and status contributed nothing to stopping the conflict.

2 Sharia for a Decade: A View from Within

Since 2001, Sharia and the indefatigable conflict between Aceh and Jakarta have been intertwined. However, according to many Acehnese, God eventually sent his hand to stop the war.[9] The earthquakes and tsunami on 26 December 2004 changed the political situation in the region. On 15 August 2005, in Helsinki, Finland, the Free Aceh Movement and the Indonesian government signed a memorandum of understanding (MoU), ending one of the bloodiest conflicts in Southeast Asia. Damien Kingsbury wrote a chronological story of the peace process in Helsinki, describing the negotiations round by round. It shows clearly that there was no talk about Sharia.[10] Nonetheless, the implementation of Sharia, although it did not significantly contribute to ending the conflict, had already been promulgated in the Undang-undang Pemerintahan Aceh/UUPA (the Law on Aceh Governance) after the Helsinki proposal. The central government legalised the UUPA on the basis of Law UU No. 11/2006. Broadly speaking, after the Helsinki MoU and the enforcement of the Law on Aceh Governance (UUPA), Sharia was handed over to the Acehnese provincial government. The central government transferred a 'tool' to the local authorities.

Meanwhile, the tsunami recovery process and the peace in Aceh attracted an international presence to the region. Interestingly, the first

Indonesia sampai Nigeria, (Jakarta: Pustaka Alvabet, 2004), 26–29. According to Law No. 18/2001, special autonomy for Aceh includes redistribution of revenues, reformation of the government structures and Islamic law.

9 See my work 'Muslim Theological Perspectives on Natural Disasters: The Case of Indonesian Earthquakes and Tsunami of 2004', MA Thesis submitted to Leiden University, 2010.

10 Damien Kingsbury was GAM's political adviser during the peace talks in Helsinki, Finland. See Damien Kingsbury, 'The Aceh Peace Process', in Arndt Graf et al., *Aceh: History, Politics and Culture* (Singapore: ISEAS Publishing, 2010), 135–156.

public caning took place in 2006, but it did not draw international attention to the consequences of the implementation of Sharia. Conflict resolution and disaster management preoccupied the minds of people as reconstruction and rehabilitation were underway. Reports about Aceh in local and international media were dominated by news concerning peace-keeping, reconstruction progress and aid transparency. Arguably, Sharia was not an interesting issue for the mass media at that time.[11] Moreover, Irwandi Yusuf and Muhammad Nazar had been elected to become the new governor and vice-governor of Aceh. Both are known for their 'secular' background, especially Irwandi Yusuf who was a former GAM spokesman. Both men are very much in line with international GAM leaders and their political views, which meant that neither had a particular interest in promulgating Sharia.[12] Following the peace agreement, the Free Aceh Movement was transformed into a local party, Partai Aceh (PA, The Aceh Party). However, the situation changed soon after many international NGOs left Aceh. The Sharia police, popularly known as WH (*Wilayatul Hisbah*), announced their presence with wholesale arrests of those violating Sharia regulations (*qanun*).[13] They carried out intensive raids on the so-called 'suspect locales', secluded places such as beaches, cafés and hotels. This was followed by the issue of various prohibitions of public conduct that, according to the authorities, are incompatible with Sharia, such as celebrating New Year's Eve, public entertainment, and more. Acehnese women are obliged to wear the *jilbab* (headscarf) and are prohibited from wearing tight dresses.

The abuse of Sharia and its relation to the politics of Jakarta can also be traced back to when the Aceh Party won the general election in 2009. Shortly before leaving the parliament building, the members of the outgoing Aceh representative council (DPRD Aceh) – members of national political parties such as Golkar, PDI-P, PKS and PPP (as opposed to local parties including PA) – passed a draft of the *Qanun Jinayah* or the Islamic Penal Law. This law includes stoning to death for those

11 I have made initial studies of the archives of *Serambi Indonesia*, a daily Acehnese newspaper from 2005 to 2007. It is difficult to find news concerning Sharia affairs during the time of the disaster. News about the disaster rehabilitation and reconstruction dominated.

12 Moch Nur Ichwan, 'Official Ulama and Politics of Re-Islamisation: The Majelis Permusyawaratan Ulama, Shari'atisation and Contested Religious Authority in Post-New Order's Aceh', *Journal of Islamic Studies* 22:2 (2011), 204.

13 According to the Aceh Sharia qanun, public caning is the punishment for those who commit the following acts: *khalwat* (sexual retreat), *maisir* (gambling), *khamar* (alcohol consumption). After the issue of UU No. 11/2011, all the Acehnese government's regulations are considered qanun.

who commit adultery and 100 lashes for homosexuality. However, this regulation has been postponed because the governor, Irwandi Yusuf, has refused to sign the *qanun*. However, according to the autonomy regulations, at the provincial level Irwandi Yusuf has no right to intervene in Sharia policy as it is applied by regents.

There have been human rights abuses by Sharia officers and regional government officers within Aceh province. For example, two members of the Sharia police raped and tortured a 20-year-old female student they had in custody on 15 July 2010. Furthermore, there are regents who have started to apply controversial regulations in their own regions. As an example, Ramli MS, the regent of West Aceh, issued a qanun forbidding women to wear jeans and 'tight' clothing.[14] Thus, Muslim women in West Aceh have been required to wear full-body clothing which does not reveal their figures and only shows their face and palms. Another 'strange' regulation was issued by the regent of South Aceh, Husein Yusuf. Oddly, he has prohibited male civil servants from having beards.[15] Since then, local and international media and human rights-based NGOs have started to report abuses in relation to the administration of Sharia in Aceh.[16]

Sharia has now been implemented for a decade. Its dynamic appears in the ongoing process of the regulations, some of which we have just mentioned. I should thank many researchers who have already provided critical studies concerning the background of the imposition of Sharia in contemporary Aceh; works such as those by Amal and Panggabean (2003);[17] Kingsbury (2007);[18] Feener and Cammack (2007);[19] Salim

14 The regulation was issued on 27 May 2010 and applied in West Aceh only. At the provincial level, the qanun about Muslim dress was issued in 2002 where Article No. 13 only stated that every Muslim should wear Islamic dress. The explanation of Article No. 13 further states that Islamic dress should cover the *aurat*, not be transparent and not be sensual. There is no subsection that jeans and trousers are forbidden.

15 *Serambi Indonesia*, 12 May 2010. Husin Yusuf never explained why he said so. He only told the media that 'we are not living in Iran, we are Indonesian Muslims'.

16 See for example Human Rights Watch, 'Policing Morality: Abuses in the Application of Sharia in Aceh, Indonesia', HRW report 2010, 4 December 2010.

17 Taufik Adnan Amal and Samsu Rizal Panggabean, *Politik Syariat Islam dari Indonesia sampai Nigeria* (Jakarta: Pustaka Alvabet), 2004.

18 Damien Kingsbury, 'The Free Aceh Movement: Islam and Democratization', *Journal of Contemporary Asia* 37:2 (2007), 166–189.

19 R. Michael Feener and Mark E. Cammack (eds.), *Islamic Law in Contemporary Indonesia: Ideas and Institutions* (Cambridge, Massachusetts: Islamic Legal Studies Program, Harvard Law School & Harvard University Press, 2007).

(2008);[20] Aspinall (2009);[21] Ramli (2010);[22] Basri (2011);[23] and Ichwan (2011).[24] Most of the aforementioned studies have, more or less, indicated how Sharia became a 'means' of quelling separatist sentiment.

However, in spite of the works of these scholars there are still many stories left, many accounts to be analysed and many findings to be discussed concerning the ongoing processes of Sharia in Aceh. The introductions of many of the aforementioned studies have focused on the legal issue of Sharia in Aceh. Only a few examine how ordinary Acehnese perceive Sharia, as Moch Nur Ichwan notes:

> Despite growing Shari'atization processes, however, some developments indicate otherwise. There have been also growing resistances from "progressive circles" such as some Muslim politicians (especially, but not exclusively, ex-GAM), public intellectuals, academics (especially, but not exclusively, of the State Institute of Islamic Studies (IAIN) Ar-Raniry), feminists, queer activists, Shi'ite intellectuals, literary writers, and human rights activists.[25]

According to Ichwan, this reality has so far been neglected by many researchers. In his own study, Ichwan tries to conceptualise types of Sharia resistance as an 'alternative voice to shariatisation' in Aceh. Modes of Acehnese resistance to Sharia may vary by education, political views, region, gender and personal disposition.

Ichwan pays attention to intellectual and religious-based group activities when challenging Sharia, which leaves some aspects still unexplored. Here I attempt to provide a more in-depth account of how individuals of less powerful, vulnerable and cultural groups in Aceh respond to the ongoing processes of Sharia, mainly in their daily and

20 Arskal Salim, *Challenging the Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: Hawaii University Press, 2008).

21 Edward Aspinall, *Islam and Nation: Separatist Rebellion in Aceh, Indonesia* (California: Stanford University Press, 2009).

22 Affan Ramli, *Merajam Dalil Syariat* (Banda Aceh: Bandar Publishing, 2010).

23 Hasan Basri, 'Applying Islamic Law (Syari'at) in Aceh: A Perspective from Within', in Arndt Graf et al., *Aceh: History, Politics and Culture* (Singapore: ISEAS Publishing, 2010), 265–286.

24 Ichwan, 'Official Ulama and Politics of Re-Islamisation', 183–214.

25 Moch Nur Ichwan, 'Alternative Voices to Officialized and Totalized Shariatism in Aceh', a research in progress report (2010) presented at the IRP meeting, the Netherlands Embassy, Jakarta, 30 May 2011. I offer my sincere and special thanks to Dr Nur Ichwan for fruitful discussions before exploring the topic of this research.

cultural activities. By closely examining the Acehnese people's activities, I will analyse some forms of cultural resistance to Sharia in Acehnese society, particularly in Banda Aceh. For example, I believe that the Sharia authority, the Aceh ulama council, and the local government of Aceh often prohibit things that, according to them, are incompatible with Acehnese culture and Islamic culture ('*tidak sesuai dengan kebudayaan Aceh dan kebudayaan Islam*'). Within the confines of this study, I would like to examine how some Acehnese people respond to and challenge such prohibitions.

According to social theorists, cultural resistance is the practice of using meanings and symbols to combat a dominant power. The term resistance covers a wide variety of forms of collective actions and may take a defensive form, such as concealment and including the ambiguous form of mimicry, which from above may be read as a mistake, but viewed from below looks more like mockery. In this case, the strategy adopted is 'defensive', 'subversion rather than confrontation'.[26] Moreover, F. Bailey coined modes of resistance such as 'pilfering, feigned ignorance, sabotage, arson, wangling, fiddling, and dodging'.[27] Although I will pay no attention to groups of peasants or workers in Aceh in this paper, James C. Scott's concept of 'weapons of the weak' is helpful in understanding how daily resistance has been expressed by less powerful people.[28] All these concepts are fundamental for this study.

3 Resistance to Sharia: An Overview

It is important to note that nearly all Acehnese are afraid of being labelled as 'anti-Sharia'.[29] However, from the very beginning, some elements of Acehnese society have shown their disapproval of the central government proposal to apply Islamic law in Aceh. Prior to the tsunami of 2004, opponents of Sharia could be categorised into two main groups, each with different purposes. The first is a group that was dominated by the traditional Dayah (Islamic Boarding Schools)-based Ulama, including Waled Nu, one of the influential Acehnese Muslim scholars who called the proposal on Sharia '*cari 'ab*' (an Acehnese word literally meaning

26 Peter Burke, *History and Social Theory: Second Edition* (Cambridge-Malden: Polity Press, 2007), 91–92.

27 F.G. Bailey, *The Kingdom of Individuals* (New York-Ithaca, 1993), 17.

28 James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985).

29 Ichwan, 'Alternative Voices to Officialized and Totalized Shariatism in Aceh', 5.

'looking for a meal') or '*tipu Jakarta*', a deception by Jakarta, and only intended to ignore the Acehnese.[30] In a seminar I attended, Waled Nu or Tgk. Nuruzzahri, a leading figure of the Himpunan Ulama Dayah Aceh/HUDA (Association of Acehnese Dayah Ulama) criticised Jakarta's policy in his speech in front of the Aceh civil society networks at the Sultan Hotel, Banda Aceh, 17 June 2007. He spoke of 'cari'ab' and refused to use the word 'Sharia' to denote the formalisation of Islamic law in Aceh. Furthermore, the HUDA also criticised the government's version of Sharia for being only a partial understanding of Islamic law. In short, if Jakarta had any interest in showing goodwill, it would allow for a comprehensive Islamic law, one which is total and not partial, called *Syariat Islam Kaffah*. However, according to the HUDA, the government did the opposite and therefore it rejected the government's version of Sharia.[31]

The second group comprised various elements but shared the same view regarding the government's proposal. They were politicians (mainly GAM leaders), human rights activists and university intellectuals who saw the implementation of Sharia as a political tool of the government to create conflict among the Acehnese. For example, according to Nur Djuli, a senior leader of GAM, Aceh had become a centre of Islamic teaching throughout Indonesia. It is ironic then that the Indonesian government was now trying to 're-Islamise' Aceh. Djuli argued that this special status was only a government tactic to win the hearts of the Acehnese. Moreover, Djuli said that GAM made no attempt to establish an Islamic state. Ideologically, GAM was motivated by historical consciousness and GAM's struggle is based on the idea of independence, not religious issues.[32]

For some Acehnese human rights activists, Sharia is a government policy used to conceal the human rights violations of the past.[33] While it is said that professors at IAIN Ar-Raniry and the University of Syiah Kuala were involved in designing the Sharia regulations, others, including intellectuals at a number of other Aceh universities, have shown their opposition to the imposition of Sharia.[34] In 2003, IAIN

30 See Rusjdi Ali Muhammad, *Revitalisasi Syariat Islam di Aceh: Problem, Solusi dan Implementasi* (Banda Aceh: Ar-Raniry Press, 2003).

31 See H. Anwar Fuadi A. Salam, *Dapatkah Syariah Islam diberlakukan di Aceh?* (Banda Aceh: Gua Hira, 2001). However, recently many Dayah-based ulama have changed their opinion, and many of them now have become Sharia supporters.

32 See Kingsbury, 'The Free Aceh Movement', 166–189.

33 Interview with Wiratmadinata (International Centre for Transitional Justice-Aceh Programme) and Hendra Fadli (Kontras Aceh), 23 March 2011.

34 See Otto Syamsuddin Ishak, *Dari Maaf ke Panik Aceh: Sebuah Sketsa Sosiologi-Politik*, (Jakarta: Tifa Press, 2008), 358.

Ar-Raniry organised a public seminar concerning the issue. Many participants, mainly lecturers, reportedly criticised the Indonesian government's decision to end the war by giving Islamic status to Aceh province. One even said that the introduction of Sharia is a 'harassment policy'.[35]

Recently, the Sharia authorities have been concentrating their efforts on the issue of women's dress, organising public canings, forbidding public entertainment, as well as issuing many prohibitions concerning private matters. This has provoked counter-discourses from those who believe that these regulations do not touch the substance of Islam and Sharia itself. In fact, many books and media articles have been written by contemporary Acehnese intellectuals such as Fuad Mardhatillah,[36] Affan Ramli,[37] Husni Mubarak A. Latief,[38] Teuku Harits Muzanni,[39] Asrizal Luthfi[40] and Teuku Muhammad Jafar Sulaiman.[41] They have criticised this version of Sharia as a 'top-down policy' formulated without popular consent.

Furthermore, Irwandi Yusuf's objection to signing the *Qanun Jinayah* is also inseparable from the reaction of Acehnese civil society organisations that demonstrated their resistance to Sharia. After the draft of the Qanun Jinayah was published in the newspapers, 100 activists from the Jaringan Masyarakat Sipil Peduli Syariat/JMSPS (the Civil Society's Network of People Concerned about Sharia) went to the Aceh Parliament and asked its members and the governor of Aceh to stop proposing

35 See Lily Zakiah Munir, 'Simbolisasi, Politisasi dan Kontrol terhadap Perempuan di Aceh', in Burhanuddin (ed.), *Syariat Islam: Pandangan Muslim Liberal* (Jakarta: Jaringan Islam Liberal-the Asia Foundation, 2003), 131.

36 Fuad Mardhatillah, 'Islam Protestan', *Journal Gelombang Baru*, vol. 4 (2009), 63–102.

37 Affan Ramli, *Merajam Dalil Syariat* (Banda Aceh: Bandar Publishing, 2010).

38 Husni Mubarak A. Latief, Sengkarut Syariat Atas Bawah, *Journal Gelombang Baru*, vol. 4 (2009), 111–122.

39 Teuku Harist Muzani, 'Syariat Tanpa Simbol', www.acehinstitute.org/index.php?option=com_content&view=article&id=385:syariat-tanpa-simbol&catid=74:paradigma-islam (accessed 2 March 2011).

40 Asrizal Luthfi, 'Pribumisasi Syariat', www.acehinstitute.org/index.php?option=com_content&view=article&id=445:pribumisasi-syariat&catid=74:paradigma-islam (accessed on 2 March 2011).

41 Teuku Muhammad Jafar Sulaiman, 'Syariat Islam tidak Perlu Dibela' (Negosiasi Pluralisme Sebagai Islam Masa Depan Aceh), www.acehinstitute.org/id/index.php?option=com_content&view=article&id=810:syariat-islam-tidak-perlu-dibela-negosiasi-pluralisme-sebagai-islam-masa-depan-aceh&catid=133:paradigma&Itemid=280 (accessed 2 March 2011).

Sharia qanuns containing human rights violations.[42] JMSPS comprises several local NGOs, such as the Human Rights NGO Coalition, Aceh Legal Aid Foundation (LBH), women volunteers on humanitarian issues (RPUK), Flower Aceh, KKTGA, Komunitas Tikar Pandan, Aceh Judicial and Monitoring Institute, Violet Grey, Women's Voice Radio, Gender Working Group, SEIA, Fatayat NU, Sekolah Menulis Dokarim, Kontras Aceh, Centre for Human Rights Studies-Unsyiah, Sri Ratu Safiatuddin Foundation and others. The group successfully convinced Irwandi to postpone the implementation of the Qanun Jinayah.

The decision by politicians, intellectuals and humanitarian activists to protest and Irwandi Yusuf's decision to postpone the implementation of the Islamic penal law show that forms of resistance to Sharia are various and exist. But how do ordinary Acehnese, without the backing of any political party, intellectual academy, material and the power of money, resist Sharia?

4 Sharia and Cultural Resistance: Voices from Below

On 31 December 2011, the Aceh ulama council and the mayor of Banda Aceh put an advertisement in the *Serambi Indonesia* newspaper. The authorities prohibited the Acehnese people from celebrating New Year's Eve. They did the same in 2009 and 2010. The threat was that fireworks and trumpets would be seized by the Sharia police. The beach near Banda Aceh would be closed to the public during the night. But, by midnight, thousands of people were driving cars and motorcycles, blowing trumpets and illuminating the sky of Banda Aceh with their fireworks. No one knows exactly where people bought the trumpets and fireworks and where they hid them before midnight. Everyone knew, however, that the Sharia police could do nothing about the crowds that night.

This is not the first time that 'feigned ignorance, sabotage, arson, fiddling, and dodging' were used against the Sharia authority. For instance, there have been beauty contests held in Banda Aceh, such as Miss Aceh Fair, Miss Coffee, *Ratu Waria Aceh* (Queer Queen of Aceh) and *Duta Wisata Aceh* (Aceh Tourism Ambassador) without approval from the Sharia office.

Some Islamic student groups and ulama condemned the contests and asked the government not to give permission to those wanting to organise these events. The group called Violet Grey[43] found its own way

42 *Serambi Indonesia*, 22 November 2009.

43 Violet Grey is an organisation that claims to strive for the rights of lesbian,

to combat the rule. In 2009, Violet Grey hosted a controversial activity, *Pemilihan Ratu Waria*, a queer festival. Violet Grey had hidden its true agenda and asked for approval from the Aceh Ulama Council and the Sharia police to organise a music concert and a seminar for charity. After the event, Violet Grey announced to the public who had won the festival. Ulama and some hardline Islamist groups and Muslim student organisations such as Hizbut Tahrir, FPI, LDK and KAMMI demanded the dissolution of Violet Grey.[44]

The two accounts below provide a more in-depth story and analysis in terms of how specific groups of Acehnese express their opposition to the administration of Sharia.

5 Challenging Arabisation through Arab Films

One of the unusual phenomena in Banda Aceh is that there is no public cinema at all in the city. This is different from the capital cities of other Indonesian provinces where watching films at cinemas is a regular feature of urban lifestyles. For example, neighbouring cities such as Medan and Padang have at least three cinemas each, generally in plazas and malls. Banda Aceh, despite the development of various business projects after the tsunami, has no cinema.

In the 1980s and 1990s, however, there were four popular cinemas in Banda Aceh. The oldest one was the Garuda Theatre located close to the Blang Padang public playground. In fact, the Garuda Theatre was a building for art performances and was one of the colonial legacies of Banda Aceh. After independence, it became the first commercial public cinema in town. In 2004, the building was hit by the tsunami. Now, it has been rebuilt for other purposes, mainly for weddings, and there is no regular schedule either for art performances or films. Further, there were cinemas dedicated to the memory of the people of Banda Aceh,

gay, bisexual and transgender people (LGBT) in Aceh. Initially, this group was introduced to the public in 2007 as an organisation focused on anti-HIV/AIDS campaigns as well as disseminating information related to sexual and reproductive health issues. It was supported by some international NGOs such as Hivos, World Vision and the National Commission on HIV-AIDS. Violet Grey has now shifted its focus to human rights issues, especially advocating the rights of lesbians, gays and transgenders in Aceh who face discrimination and intimidation from both society and the authorities.

44 See www.antaranews.com/berita/1266144439/ulama-kecam-kontes-waria-aceh (accessed 2 March 2011).

including the Gajah Theatre, Jelita Theatre and PAS 21. PAS 21 was burnt down during the conflict of 2001 and the Jelita theatre was closed in the late 1990s after the political situation worsened. It has now become a supermarket and has been renamed Hermes Mall.

The Gajah Theatre was the last remaining cinema in Aceh, even surviving the conflict. However, it was closed to the public following the disaster of 2004 and is now used as a military warehouse. Thus, there are currently no cinemas in Banda Aceh. It is said that the Sharia authorities regard the presence of a cinema in Aceh as incompatible with the implementation of Sharia. Indeed, the authority considers cinemas to be potential places for Sharia violations. In his article, *Bioskop di Banda Aceh: Sejarah Esek-Esek* ('Cinema in Banda Aceh: A History of Improper Sexuality') Sehat Ihsan Sadiqin wrote, 'it is commonly thought that people in Banda Aceh went to the cinema not only to watch films but also to *khalwat*.'[45] According to Sadiqin, this is one of the reasons why the local government then asked the owner of the cinema to separate men and women in the building. He acknowledges the possibility of the cinema becoming a place where Sharia violations could take place. However, it is not clear whether Sadiqin agrees with the local government policy on cinema, because he also wrote that entertainment, including films, is a necessity and not in contradiction with Islam.[46]

In fact, until now there has been no regulation that prohibits people from opening or going to the cinema in the Sharia qanuns. But prior to the tsunami, the Sharia police regularly came to raid those accused of committing khalwat while watching films at the cinema. Consequently, people stayed away from the cinemas and in the end they were forced to close. Needless to say, people in Aceh are now watching films on television or VCD players.

Fozan Santa, an Acehnese-born filmmaker, has a different opinion concerning Sharia policy on cinema. Along with some of his colleagues he runs a local organisation called Sekolah Menulis Dokarim (Dokarim Writing School).[47] This organisation was founded in 2003 by some Acehnese writers, and is known as an alternative literary school for Acehnese students interested in literature. Initially, the programme

45 Sehat Ihsan Sadiqin, 'Bioskop di Banda Aceh: Sejarah Esek-Esek', http://hiburan.kompasiana.com/film/2010/05/21/bioskop-di-banda-aceh-sejarah-esek-esek/.

46 Ibid.

47 Dokarim was the nickname of the late 19th century bard poet Abdul Karim, the author of the *Tale of the Dutch War*. What little we know about him comes from Snouck Hurgronje's *De Atjèhers* (Batavia and Leiden: Landsdrukkerij and Brill, 1893–1894).

was primarily about creative writing and publishing.[48] Fozan joined the organisation in February 2005, shortly after the tsunami. He was very critical of Acehnese government policy and, according to him, the intensity of the implementation of Sharia has destroyed one of the important things in life – the right to entertainment.

Fozan argued that film is a strongly effective medium for learning and that the cinema is an important public sphere where people share information and culture. His background as a film director as well as a screenplay writer resulted in the Dokarim programme changing from being solely training for writers to also including an annual Banda Aceh film festival.

The festival is unlike any other film festival. Since Banda Aceh has no cinema, Fozan and his friends installed screens and VCD players at the university campus, cafés and villages for the festival. Interestingly, all the films shown during the festival are concerned with the situation in the Middle East and North Africa. Indeed, Fozan and the Dokarim school members call the festival the 'Festival Film Arab' or the Arab Film Festival. But why an Arab film festival?

Fozan, who graduated from IAIN Sunan Kalijaga, Yogyakarta, argues that Sharia has led to the imposition of Arab culture in Aceh. As an educated Muslim, he imagined that Islam and Sharia (in their fundamental definition) would contribute positively to building back a better Aceh after the bloody conflict and tsunami, but he argues that the authorities have politicised Islam and Sharia to gain power. According to him, few contemporary Acehnese distinguish between Islam and Arab culture. Through his knowledge of Islam and Muslim cultures he wants to illustrate that what is happening in Aceh is a process of Arabisation rather than Islamisation. The slogan of the festival is '*Sinoe Aceh Sideh Arab, Sinoe Sideh Hana Rab*', which literally means 'Here is Aceh, there is the Arab World; Here (Aceh) and There (Arabia) are not close (and not so alike)'. It highlights that there are many differences between the two cultures and that one cannot simply replace the other.

Below are some of the titles of films that have been shown at the festival:

In 2009:

1. *Condemnations*, Walid Mattar, Tunisia, 2009, 15 min
2. *The Unknown Lady*, Fajr Yacoub, Syria-Palestine, 2010, 22 min
3. *La Trappola*, Lemnaouer Ahmine, Algeria, 2010, 62 min

48 Sekolah Menulis Dokarim is a member of the Cultural League Komunitas Tikar Pandan: see www.tikarpandan.org (accessed 5 August 2011).

4. *I am George*, Mohsen Abdelghan, Egypt, 2010, 10 min
5. *Saba Flous*, Anis Lassoude, Tunisia, 2010, 15 min
6. *Jasmin Bird*, Sulafa Hijazi, Syria, 2009, 90 min[49]

In 2010:
1. *Caramel*, Nadine Labaki, Lebanon, 2007, 90 min
2. *The Stoning of Soraya M*, Cyrus Nowraste, Iran, 2009, 110 min
3. *Baran*, Majid Majidi, Iran, 2003, 98 min
4. *Le Grand Voyage*, Ismael Ferroukhi, Morocco-France, 2007, 108 min
5. *Shouf Shouf Habibi*, Albert Ter Heerdt, Morocco-the Netherlands, 2008, 85 min
6. *Turtle Can Fly*, Bahman Gohbadi, Iraq, 2007, 95 min[50]

The Arab Film Festival, organised by the Dokarim School, is an interesting phenomenon within the ongoing process of Sharia implementation. On the one hand, it seems that this programme supports the notion of Sharia in Aceh. Many people attend the festival and participate in a series of discussions after the screenings. Fozan realises that most ordinary Acehnese regard 'Arab' and 'Islam' as being synonymous. Everything that comes from the Arab world is considered Islamic and treated as holy. Dokarim Arab Film Festival wants to show the contrary through films. He believes that films may influence people in a peaceful way to be aware of the distortion of the real meaning of Sharia. This is the way to support 'Sharia' by resisting Sharia, as he concluded.

6 Punk: Resistance to Sharia from the Street

A piece of writing appeared on the social network website, Facebook, entitled '*Aku Azhari, Aku Seorang Punker: Apa Ada Masalah Besar*?' ('I am Azhari and I am punker: Is there a big problem with that?'). It was posted by Azhari Aiyub on 13 February 2011.[51] Within a matter of hours, some 70 comments were posted in response. The article talks

49 The Dokarim report, 2009.

50 The Dokarim report, 2010.

51 www.facebook.com/note.php?note_id=10150142263646015 (accessed 15 July 2011). This article has also been published by *Distraction Zine*, vol. 4, June 2011. Internet access can easily be found in many places including coffee shops in Banda Aceh and is one of the valuable contributions made by the international development presence involved in rebuilding Aceh after the disaster. Most Acehnese now have a Facebook account.

about a punker who was angry because his dignity as a human being was being violated. The entry also talks about the chronological history of the punk community. Azhari further discusses punk ideology and nihilist philosophy, punk anarchical ideas and statements about how such a marginalised group survives in Aceh at a time of growing hypocrisy. In fact, Azhari is Acehnese-born and a well-known figure within modern Indonesian literature. He does not wear punk clothes nor lives on the streets like many other punkers. His writing nonetheless showcases his sympathy with punk communities against the background of many Sharia police-backed arrests of members of the punk community in Banda Aceh.

Azhari first reacted when he read the news coverage of the arrest of several punkers by the Sharia police in 2011.[52] These punkers were taken to the State Police Academy in Saree, Aceh Besar, where they were shaved. A number of pictures showing this were published by several mass media. Azhari was furious and wrote the article in response. He told me that he had previously sent the article to several local media for publication but they all rejected his article, despite the fact that none of Azhari's writings had ever been rejected before. Azhari accused the local media of supporting the interests of politicians whose religious hedonistic and hypocritical lifestyles were being disrupted by the presence of the punkers 'who do not see what is considered important by several politicians and rich people in Aceh as important'.[53]

How punkers came to be and how long they have been in Aceh is not exactly known. As a rebel movement, punk started out in London and spread throughout the world. In Indonesia, punk communities generally grow in big cities such as Jakarta, Bandung, Surabaya and Yogyakarta. These communities are characterised by their clothes, hairstyles and gatherings. Leather jackets, nails, colourful Mohawk hairdos and special shoes have made them different from the majority of people. Punk has been identified as part of a counterculture, groups that resist surrounding social conventions.[54]

It is said that punk communities existed in Aceh prior to 2000. They started by establishing a number of rock bands and conducted several music festivals as a way to resist the never-ending political disputes in Aceh. People in Banda Aceh were struck by the presence of unusually dressed youths. They look different from others since they usually play

52 *Serambi Indonesia*, 12 February 2011.

53 Interview with Azhari Aiyub, 16 March 2011.

54 See for example Roger Sabin (ed.), *Punk Rock, So What? The Cultural Legacy of Punk* (Routledge: London & New York, 1999).

music and walk around on the streets of Banda Aceh. They call themselves 'Punkers'. A few people complained in the media about the presence of punk in Banda Aceh, because they look 'weird and un-Islamic' and, culturally, punk is not part of Acehnese culture. Some parents also said that they were afraid their children would join the group.[55] Since January 2011, members of the punk community in Banda Aceh have become the main target of regular sweepings by the Sharia police. They are usually arrested and imprisoned for several days before being returned to their parents.

Dedi Besi, who is considered senior within Aceh's punk community, said that he became a punker in 1998. Dedi learned about punk when he was studying in Yogyakarta. He believes that being a punker is in line with his job as an archaeologist. Then, he was called Dedi Besi (Iron Dedi) by his fellow punkers because he likes to look at and collect junk metal and iron, especially rusty nails he finds on the streets. Dedi used these rusted nails as accessories for his clothing. He looks polite and is far from looking like an urchin. He always carries a small guitar wherever he goes. He does not live on the streets, because his parents are relatively wealthy. I was even more amazed by the fact that Dedi is now teaching archaeology at the Faculty of Culture at the State Institute of Islamic Studies (IAIN) Ar-Raniry.

Dedi asserted that many Acehnese punkers know about things that are forbidden by Islam. They do not live freely, nor do they indulge in free sex even though they are accused of doing so; they do not rob people, and they do not provoke riots. They only gather, walk on the streets and play musical instruments. Perhaps, their appearance is unlike that of the rest of the community, but this does not mean that they are criminals. He does not deny that there are punkers who drink and fight, but this does not give the authorities the right to suppress and reject punkers' existence in Aceh by deploying the Sharia police as the guardians of Sharia law. He believes that the Sharia police should take a more humane approach to the punkers.[56]

Dedi argues that many people who have a more conservative appearance commit violent acts, steal, are corrupt, drink, and adopt undesirable practices. Dedi Besi sees the tension between the punkers and the Sharia police as a result of the Sharia police's failure to understand what punk is. In fact, there are many kinds of punks and most are not involved in negative activities. Nonetheless, punkers have suffered blanket indictments.

55 Readers' forum of *Serambi Indonesia*, 3 January 2011.
56 Interview with Dedi Besi, 29 June 2011.

After the arrests, the Sharia police banned some of the punk communities, publishing a list in the mass media. These include:

1. *Rantai Hitam* (Black Chain)
2. Museum Street Punk
3. Rock in Love
4. *Damai Boleh Ribut Boleh* or *DaboRibo* (Peace Okay Chaos Okay)
5. *Netral* (Impartial)
6. *Anak Brutal* (Bad Boys)
7. *Ello*
8. *Tanggoel Rebel* (Rebel Dyke)
9. *Jusuid Guero*
10. Black Green
11. Brume + Horizontal
12. Lamb of Gun[57]

Meanwhile, Syahril, a Sharia police officer, said that the arrests were lawful because punk is a Western subculture which is unfamiliar to Acehnese people. Therefore, the punkers' existence is deemed to have disturbed order within the city of Banda Aceh. According to Syahril, punkers have been involved in activities that have worried local people. Syahril did not provide further details about such activities, but he did emphasise that punkers should not exist in Aceh. Punkers have to respect Aceh as a region that is implementing Sharia law. If the punkers do not want to respect the Sharia law, then they should leave Aceh.[58]

Despite the punkers' explanation, a number of Islamic organisations support the Sharia police's extreme measures. These Islamic organisations issued a press release stating their support for the arrests. Teuku Zulkhairi, a member of Dewan Dakwah Islamiyah/DDI (Islamic Dakwa Council) and the President of IAIN postgraduate students, is one of the outspoken supporters of the Sharia police. He wrote an article entitled '*Menyorot Komunitas Punk Aceh*' ('Bringing to Light Aceh Punk Communities').[59] Zulkhairi further attacked those who defended punkers and called them 'a group whose way of thinking should be questioned' and a group that 'always hides behind human rights issues when defending things advocated by non-Muslims'. He further asked, 'How would a Muslim justify a punker's way of life?'

This is where the debate stands. Lowbat Boeloek, a leader of a punk community, stated that their activities have not violated Sharia law. The

57 *Serambi Indonesia*, 11 February 2011.
58 Interview with Syahril, April 2011.
59 *Harian Aceh*, 24 January 2011.

punk community to which Lowbat belongs is called Tanggoel Rebel. They have often taken to the streets to announce that they have the right to live in Aceh and they have protested against the arrest of several of their members. Boeloek himself is an educated young man. He is finishing his studies at the Economics Faculty of Syiah Kuala University. Boeloek condemns the government of Banda Aceh which, through its Department of Sharia Law, has generalised and categorised the existence of the punkers' ways of life as '*penyakit masyarakat*' (social diseases).[60]

Lowbat Boeloek claimed that they still carry out the five-times-a-day prayers and they have helped to clear Banda Aceh's streets of rubbish. It is not the business of the Sharia police to worry about their hair and clothing styles. Everything depends on personal tastes and aesthetic perspectives and these clearly differ between people. Punk communities can easily point out a number of cases of corruption implicating those who claim to be religious (and claim to be Muslims) who, on different occasions, would deliver sermons on morals and on how to maintain Sharia law. Meanwhile, their deeds are far removed from Islamic teachings. Punkers exist to fight against their hypocrisy, Lowbat continued.

The emergence of a Muslim punk community in Yogyakarta has been an interesting phenomenon and provides a useful comparison for the situation in Banda Aceh.[61] Members of this group dress like punkers but they emphasise their roles as Muslims. Besides singing on the streets, these particular punkers also carry out regular religious study groups called PUNKAJIAN, a creative way of writing '*Pengkajian*', which means study. Dedi and Lowbat claimed that many of them also did what the Yogyakarta Muslim punkers did. Nonetheless, the government of Aceh and the Sharia police only look at the way these punkers dress and judge it to be different from the local standard of ethics and local religious understanding. Lowbat asserted that tastes will never be the same 'until Judgement Day'.

The fact that the punkers' existence is not welcomed is not a problem confined to Banda Aceh. Big cities in Indonesia such as Bandung, Jakarta, and Yogyakarta also have punk communities and they often have to deal with the police as well. I can accept the critical notion that it is still too early to identify punk as a form of cultural resistance to Sharia law in Aceh as it must be further problematised and debated. However, Banda Aceh differs from the larger cities in Indonesia both in terms of its size and for its introduction of Sharia-based regulations and in this context gives punkers a different role. Lowbat Boeloek further stated that

60 Interview with Lowbat Boeloek.

61 http://punkmuslim.multiply.com/.

Acehnese punkers existed prior to 2000 but that they had drowned in the tsunami or had been killed in the conflict. On 9 September 1999, some punkers gathered again and re-established their movement to form a countermovement against the hypocrisy of the Achenese elite. They felt that the traditional Acehnese attached too much value to clothes and religion, as opposed to the many 'real' problems in society.

It is the way punkers dress and the songs they sing that the authorities and the Sharia police dislike. Often, the police dispersed them as they were gathering at particular locations within Banda Aceh. Such dispersals have worsened the relationship between the punk communities and the Sharia police. Indeed, the situation became worse at the beginning of 2011, when the police and the punkers clashed and a Sharia police officer was stabbed. Since that incident, punkers have been targeted by the Sharia police. However, the punkers have fought back and have taken to the streets, shouting that they do not want to be eradicated by the Sharia police.

It is interesting to see how the democratic process runs in Aceh with regard to this case. After the tsunami, the international presence influenced the rapid adoption of human rights norms among Acehnese civil society organisations. The role of lawyers from Banda Aceh's Legal Aid Institution (LBH), an institution aiming to provide free legal aid to people, was clear when some young lawyers tried to release the arrested punkers. Nevertheless, the LBH was unable to start a legal case against the Sharia police because the punkers who had been tortured did not want to report the Sharia police to the national police. 'It doesn't make any sense, they are the same', Boeloek said.

The problem with the punkers is yet to be resolved even though a number of parties have tried to invite the Sharia police and representatives of the punk communities to participate in a comprehensive dialogue. Discussions and seminars have been held in order to respond to the violence experienced by this minority group. However, physical clashes between the Sharia police and punkers continue to occur. Two days prior to Ramadan, on 29 July 2011, Sharia police once again conducted raids against punkers in Banda Aceh.[62] During the raid, one punker, named Rully or Oyie, was arrested and beaten by the authorities. This was done in front of the deputy mayor of Banda Aceh.[63]

The government programme named 'Visit Banda Aceh Year 2011' should be taken into consideration when trying to find out why the Sharia

62 http://harian-aceh.com/2011/07/28/satpol-pp-dan-wh-keroyok-anak-punk (accessed 31 July 2011).

63 Interview with Junaidi Hanafiah, a journalist of *Harian Aceh*, 2 August 2011.

police and the government of Banda Aceh have been aggressive and hostile to punkers. It is likely that the authorities fear that the punkers – with their activities which are considered inappropriate or not part of Acehnese culture – may spoil the image and motto of Banda Aceh as the '*Bandar Wisata Islami*' ('Islamic Tourism City' or 'A Spiritual Gateway to Islamic Tourism') and drive away tourism.

The year 2011 saw a further number of contradictions in the position of the Aceh government with regard to adherence to Sharia implementation. While the entertainment industry was minimised with Sharia law banning the gathering of men and women, the government did organise a number of festivals. The *Peunayong*[64] Festival, *Duta Wisata Aceh* (Aceh Tourism Ambassadors) and the River Festival, among others, are examples of public events held by Banda Aceh's Ministry of Tourism to support the 'Visit Banda Aceh Year 2011' programmes. Here, the government failed to deploy enough Sharia police officers to oversee the separate attendance of men and women at these events, thereby failing strictly to adhere to the regulation that no mixing of men and women can take place at public events.

7 Concluding Remarks

Aceh experienced various challenges in the implementation of Sharia. A decade after its formalisation, there is still no consensus on which type of 'appropriate' Sharia should be adopted by this region. Some religious groups and Acehnese public figures have criticised the Sharia-based legislation, arguing that Sharia is now merely used by the government as a tool to strengthen its political position. However, many previous studies concerning the implementation of Sharia in Aceh have often overlooked ordinary people's reaction to the law. To fill the gap, some cases and youth expressions summarised in this article show some examples of how the implementation of Sharia has drawn criticism from the ordinary Acehnese. Their criticism has been expressed in the form of resistance and disobedience. However, central to this work is that their actions are not meant to reject Islam and Sharia, but to combat the politicisation of Islamic law by the authorities.

64 Peunayong is a Chinatown situated in the centre of Banda Aceh.

9 Images of Violence and Piety in Aceh

David Kloos[1]

1 Introduction

On 23 February 2010 people in Aceh were surprised by the news that a training camp for aspiring jihadis, or 'terrorists' as they were simply called in local media, had been discovered near Jantho in the district of Aceh Besar, the rural area surrounding the provincial capital of Banda Aceh. An initial effort by the police to make arrests turned out to be disastrous and a large number escaped into the nearby mountains. In the subsequent attempt to round up the group, several members of the security forces were killed.[2] Three innocent civilians were also killed, two of them because they had been mistaken for terrorists and the third because he was hit by a stray bullet.[3] Wary of further escalation, President Susilo Bambang Yudhoyono stated that these terrorists were not connected to GAM (Gerakan Aceh Merdeka, or Free Aceh Movement), the Acehnese separatist organisation that was formally disbanded after the signing of a peace treaty with the Indonesian government in August 2005.[4] Ultimately, it took more than a month to kill or arrest all of the alleged terrorists and affiliated members of the cell. Among them

1 Acknowledgments: The research conducted for this chapter was supported by the Faculty of Arts, VU University, Amsterdam, and the Islam Research Programme (IRP). I am grateful to Heather Sutherland and Henk Schulte Nordholt for supervising my PhD research, and to Marise van Amersfoort, Martin van Bruinessen, Léon Buskens, Kees van Dijk, and Nico J.G. Kaptein for supervising the IRP Indonesia team. I am grateful to Annemarie Samuels and the editors of this volume for their critical comments on an earlier version of this chapter.

2 'Baku tembak berkecamuk di Seulimeum', *Serambi Indonesia*, 5 March 2010; 'Pengepungan berlanjut', *Serambi Indonesia*, 6 March 2010; '4 Jenazah dievakuasi dari Medan Tempur', *Serambi Indonesia*, 7 March 2010.

3 'Pengepungan Jantho, satu warga tewas', *Acehkita.com*, 23 February 2010; 'Kami hanya cari ikan', *Acehkita.com*, 24 Feburary 2010; '2 warga tertembak, Polda harus bertanggungjawab', *Acehkita.com*, 24 February 2010; 'Lagi, seorang warga tewas tertembak', *Acehkita.com*, 4 March 2010 (accessed 14 March 2010).

4 'Teroris di Aceh tak terkait GAM', *Serambi Indonesia*, 6 March 2010.

was Dulmatin, the most wanted terrorist in Southeast Asia, and the leader of the group. He was shot dead on 9 March, in an internet café in Tangerang, Banten.[5]

In the following months more information became gradually available.[6] The group, it turned out, had split off from the Jemaah Islamiyah (JI), an infamous jihadi organisation commonly linked to Al Qaeda and led by the radical cleric Abu Bakar Ba'asyir. Apparently, Dulmatin, one of the masterminds behind the deadly terrorist attack on Bali in 2002, had become alienated from the movement. Since 2006 he and a number of like-minded persons had concluded that the jihadi struggle had gone astray, and that it was necessary to develop 'a new programme that could unite the jihadi community'.[7] The training camp in Aceh revealed the existence of a new coalition which, besides Dulmatin, included well-known radical Islamists from Java and elsewhere, as well as a handful of local Acehnese who were sympathetic to the jihadi cause. The group was heavily armed and had considerable knowledge of the terrain around Jantho. When the police secured the site of the training camp they encountered weapons, books about 'global jihad', and DVDs related to the Bali bombings. During the investigation the police 'speculated that the militants were preparing to fight in Palestine and did not have a domestic Indonesian agenda'.[8]

The choice of Aceh to start a training camp was not particularly smart. It appears that Dulmatin and his group were looking for a 'secure base' for their operations. They chose Aceh as a location, first, because the successful guerrilla actions of GAM had made Aceh look like suitable terrain for underground activities and, second, because Aceh seemed like fruitful ground for recruitment as a result of the local implementation of Sharia law.[9] Both assumptions were wrong. War-torn Aceh was not a great place to walk around with guns. Attempts to involve known radical religious teachers failed hopelessly, at least partly because of the uncompromising way in which the leaders of the cell rejected Acehnese

5 International Crisis Group, 'Indonesia: Jihadi surprise in Aceh', Asia Report No. 189, 20 April 2010, 12.

6 An authoritative analysis can be found in ibid.

7 Ibid., 1.

8 US Embassy, 'Aceh police action nets four militants, estimated 50 at large in jungle', http://www.wikileaks.org/plusd/cables/10JAKARTA254_a.html (accessed 3 November 2013). Indeed, this was most likely one of the coalition's goals, although the plan to send trained Indonesian jihadis to Gaza had apparently already been cancelled in early 2009. See International Crisis Group, 'Indonesia: Jihadi surprise in Aceh', 9.

9 Ibid., 7–8.

Hills around Jantho where the confrontation with alleged terrorists took place

cultural practices as 'un-Islamic'. This does not mean that no Acehnese were involved in the group. A list of suspected members, compiled a few months later by the International Crisis Group, counted 18 people from Aceh out of a total of 78.[10]

Aceh is often seen as a place where radical Islamist movements are less influential than in other parts of Indonesia. This is true, in the sense that the separatist conflict made it difficult for such groups to establish themselves. At the same time, this view risks reproducing some simplistic stereotypes, namely that the Acehnese are inherently conservative, pre-occupied with their own territorial concerns, and hostile or 'immune' to outside influences. Stereotypes like these coloured the ways in which both domestic and international media analysed the 'terrorist' issue. Some media outlets wrote about the possible links between the discovery of the jihadi camp, expressions of fundamentalism in Aceh and Sharia law.[11] Other, less suggestive reports came to a diametrically opposite conclusion, emphasising that this group came from outside Aceh, and quoting Acehnese political and religious leaders

10 Ibid., 'Appendix B', 19–22.

11 See, e.g., this highly suggestive report on the website of Radio Australia, http://www.radioaustralia.net.au/asia/2010-05-04/jihadi-terrorist-cell-uncovered-in-aceh/189854 (accessed 3 November 2013).

who stated that the group would never find support among the Acehnese, whose Islamic teachings were peaceful.[12] Both views, in my opinion, are problematic.

When the training camp was discovered in February 2010, I was living in Aceh in order to conduct fieldwork for my doctoral dissertation.[13] Coincidently, one of the clashes between the alleged 'terrorists' and the security forces took place in a forest relatively close to my field site, a rural village in Aceh Besar, which I will refer to by the pseudonym of 'Jurong'. This situation provided me with an unexpected opportunity to record the villagers' first reactions to these events at a time when it was still very unclear what kind of people the authorities were dealing with, what their motivations were, and how the violence would end. Interestingly, these reactions varied widely. Many people were afraid that the conflict might flare up again. Others expressed their anger at what must certainly be 'outsiders' whose presence was disrupting Aceh's fragile peace. Again others sympathised with the apparent motivations of the 'terrorists', even if they did not agree with the use of violence or with the choice of Aceh as a base. At the same time, there was considerable uncertainty and ambivalence about what to believe, or how to make sense of the situation. Safwan, a 43-year-old civil servant, after expressing his surprise and speculating whether the situation might get out of hand and become 'political', explained to me that most of all he felt 'confused' (*bingung*).

In this chapter I argue that in order to understand these divergent emotions and explanations, it is important to investigate, first, the ways in which different 'images of violence and piety' have developed over a long period of time and in the context of Acehnese history and society, and second, what impact these images have on society today.[14] As such, this case provides an opportunity to address a specific problem that has been weighing on my mind for some time. The Acehnese are known, stereotypically, as a particularly pious and militant people.

12 See, e.g., the Jakarta Post, http://www.thejakartapost.com/news/2010/03/09/aceh-denies-any-links-with-terrorism.html (accessed 3 November 2013).

13 David Kloos, *Becoming better Muslims: Religious authority and ethical improvement in Aceh, Indonesia*, PhD dissertation, VU University Amsterdam, 2013.

14 This chapter does not contain an argument about 'religious violence'. William Cavanaugh convincingly demonstrated the nonsensical nature of this label, arguing that it commonly functions to deflect attention from, or brush under the carpet, the 'secular' roots of violence, without supplying valid reasons for doing so, see William Cavanaugh, *The myth of religious violence* (Oxford: Oxford University Press, 2009).

This image is old, and it is persistent. It has been reproduced again and again in written sources, such as official documents, books and newspapers, but also in visual sources, such as photographs and films, and in 'traditional' art performances such as dance. It is important to approach these images critically. They are distortions of the ways in which people in Aceh experience their religion. They conceal the contradictions and ambiguities that inform lived reality. They are ideological, and often say more about political agendas than people's everyday lives. At the same time, however, anyone who has spent time in Aceh will acknowledge that these stereotypes, although highly problematic in an analytical sense, have a particular purchase in social reality. In other words, the images of violence and piety are not just constructions created 'on the outside'. They are present in Aceh and they must be taken into account if we want to understand how people address the question of 'what it means' to be Acehnese. Of course, images of violence and piety do not determine people's thoughts and actions. Yet the question is important because it holds implications both for the way in which we address trends in local politics (including, but not limited to, the implementation of Islamic law), and the complex processes of social and cultural change. This chapter traces images of violence and piety in Aceh, asking, first, how they manifested themselves in the specific context of Jurong in early 2010 and, second, how they are rooted in and are drawn from the multi-interpretable, discursive strands that make up Acehnese history.

The structure is as follows. The first chapter offers the historical context. The second part moves to the events of 2010, focusing on the ways in which the scarcity of official information, rumours and the village talk revealed particular images of violence and piety. In the third part I go back into history to trace some of these images, focusing on the myriad meanings they have been given in different periods and by different segments of Acehnese society. I will focus on the idea of 'holy struggle', which is sometimes referred to through the Islamic concept of jihad, and sometimes by (less sensitive) Indonesian language alternatives such as *perjuangan suci*. In the conclusion I return to the problem of stereotypes in Acehnese society.

2 Violence and Religion as Defining Aspects of Acehnese History

Islam has played a central role in the formation of Acehnese identity ever since at some point around the turn of the 20th century it became

a meaningful category for ethnic self-representation.[15] Today, 'being Acehnese' is commonly understood as a combination of speaking (any dialect of) the Acehnese language, respecting a local variation of Acehnese customs (*adat*), adhering to Islam, and identifying, one way or another, with the Acehnese past.[16] In the second half of the 20th century Acehnese ethnic identity became increasingly politicised in a development closely connected to the region's violent history.

The Dutch colonial army invaded Aceh in 1873, in a move legitimised as an attempt to eradicate piracy in the Straits of Malacca, but today commonly placed by historians in the context of imperial conquest.[17] What the Dutch expected to be a brief campaign turned into a grinding war. Although the Acehnese Sultan capitulated in 1903, there continued to be localised but intense eruptions of violence until the Japanese occupation ended Dutch rule in 1942.[18] In 1891, the Dutch orientalist Christiaan Snouck Hurgronje discovered that the leaders of 'Acehnese' resistance perceived the struggle as a 'holy war'. Behind the line of concentration a bitter conflict over arms, resources and authority had broken out between representatives of the traditional aristocracy (the *uleebalang*) and a group of religious scholars (the *ulama*). In the 1890s it was the ulama, rather than the uleebalang who had come to lead the war, framed it as a jihad and, as a result, gained unprecedented authority among the population. In response, Snouck Hurgronje advised the Dutch generals openly to

15 As Edward Aspinall has written, 'there is little evidence from before the twentieth century of a widely shared, conscious Acehnese identity, and there is even less to suggest that such an identity was a basis for mobilization, even during war': Edward Aspinall, *Islam and nation: Separatist rebellion in Aceh, Indonesia* (Stanford: Stanford University Press, 2009), 20. In the vernacular literature predating the 20th century the word 'Aceh' refers not to a defined physical space, but to Banda Aceh, the harbour on the tip of Sumatra and the site of the Sultan's palace (*kraton*). The important identity marker for ordinary people then was the Islamic religion and their status as residents of a particular village or fiefdom. It was the Dutch colonial government which came to speak of Aceh as a 'province' with particular cultural and religious characteristics. See Kloos, *Becoming better Muslims*.

16 According to official statistics, 98 per cent of circa 4 million inhabitants of Aceh province consider themselves Muslim, while the large majority is ethnically Acehnese.

17 See, e.g. Nicholas Tarling, *Imperialism in Southeast Asia* (London and New York: Routledge, 2001), 135–144.

18 For a discussion see Paul van 't Veer, *De Atjeh-oorlog* (Amsterdam: De Arbeiderspers, 1969).

support the uleebalang, while at the same time ruthlessly persecuting the militant ulama and their followers.[19]

The Japanese occupation featured a reconfiguration of the political role of the ulama and the uleebalang. While the Dutch had experimented for some time with the co-optation of quiescent ulama, during the Japanese period this became common policy. After the defeat of the Japanese in the Pacific War, the tension between the two groups resulted in a civil war known, rather euphemistically, as the 'Social Revolution' (1945–1946). In this brief but intense confrontation the uleebalang were stripped of power, many of them being killed, incarcerated or put to flight.[20] The strengthened role of the ulama – and their role in the resistance against the Dutch – was recognised in 1945 by the Indonesian Republican government, which appointed Daud Beureueh, a charismatic and highly influential reform-minded ulama, as the governor of Aceh province.[21] Daud Beureueh aspired to create an Islamic polity in Aceh.[22] However, his attempts to raise the status of Islamic law failed, partly as a result of internal feuds between Aceh's political and religious leaders, and partly because of a lack of support from the government in Jakarta. In 1951 Aceh was incorporated into the province of North Sumatra.

Political developments in the second half of the 20th century were dominated by two subsequent rebellions. In 1953 a radicalised faction of ulama led by former governor Daud Beureueh started an armed rebellion against the central government in Jakarta under the banner of Darul Islam ('Abode of Islam'). The revolt, which was aimed at transforming Indonesia into an Islamic state, ended in 1962 after the government had

19 Snouck Hurgronje's advice was laid down in the infamous 'Atjeh-rapport' (Aceh report). See Emile Gobée and Cornelis Adriaanse, *Ambtelijke adviezen van C. Snouck Hurgonje 1889–1936*. 3 volumes ('s Gravenhage: Nijhoff, 1957–1965.), Vol. I, 47–125.

20 For a detailed discussion of this period see Anthony J.S. Reid, *The Blood of the People: Revolution and the End of Traditional Rule in Northern Sumatra* (Kuala Lumpur: Oxford University Press, 1979).

21 Daud Beureueh was the leader of the Persatuan Ulama-Ulama Seluruh Aceh (All-Acehnese Association of Ulama, PUSA). This organisation was founded in 1939 and played an important role in a rebellion against the Dutch colonial government in 1942 and the subsequent Japanese occupation. PUSA-affiliated ulama, including Daud Beureueh, were rewarded by the Japanese with official government functions, particularly in the domain of Islamic law, that used to be the jurisdiction of the uleebalang.

22 See, in particular, Eric E. Morris, *Islam and Politics in Aceh: a Study of Center-periphery Relations in Indonesia*. PhD dissertation, Cornell University (1983), 162–163.

restored Aceh's provincial status and promised the Acehnese autonomy in the fields of religion, customs and education.[23] In the 1970s however, ongoing centralisation and dissatisfaction with the central government's policy of concentrating the yields from natural resources in Jakarta led to a new rebellion. In 1976 Hasan di Tiro, an Acehnese businessman and diplomat hailing from a famous family of ulama, founded Gerakan Aceh Merdeka (Free Aceh Movement, GAM). The civil war between GAM and the Indonesian military escalated in the late 1980s, developing into a protracted conflict producing some of the worst atrocities in the history of the Indonesian Republic. GAM was based, at least partly, on the networks of Darul Islam. In contrast to its predecessor however, the movement developed a largely secular, ethno-nationalist ideology directed at separating Aceh from the Indonesian nation.[24]

In 1999, a year after the Asian financial crisis heralded the fall of the New Order regime, Aceh was allowed by the government in Jakarta to implement a regional formulation of Sharia law as part of a new autonomy package amid hopes of ending the ongoing conflict. The initiative was rejected by GAM, which considered Jakarta's decision as a move to delegitimise the separatist movement.[25] The December 2004 Indian Ocean tsunami hit Aceh with full force, destroying the provincial capital Banda Aceh and decimating the population living on or near the coast.[26] In the context of post-disaster reconstruction, a peace agreement

23 Connecting the struggle to the wider Darul Islam movement, the rebels pledged loyalty to the 'Islamic state of Indonesia' (NII) declared more than ten years earlier by Kartosuwiryo in West Java. For discussions of this period see Cornelis van Dijk, *Rebellion under the Banner of Islam: The Darul Islam in Indonesia* (Leiden: KITLV Press, 1981); Chiara Formichi, *Islam and the making of the nation: Kartosuwiryo and political Islam in twentieth-century Indonesia* (Leiden: KITLV Press, 2012); Nazaruddin Sjamsuddin, *The republican revolt: A study of the Acehnese rebellion* (Singapore: Institute of Southeast Asian Studies, 1985).

24 See Aspinall, *Islam and nation*.

25 See Law No. 44/1999 on the Special Status of the Province of Aceh; for a discussion of the stances of GAM and the Indonesian government see Aspinall, *Islam and Nation*, 209–217; Michelle A. Miller, *Rebellion and Reform in Indonesia: Jakarta's Security and Autonomy Policies in Aceh* (London: Routledge, 2009). For an analysis of the implementation, institutionalisation and current enforcement of Sharia law in Aceh see R. Michael Feener, *Shari'a and social engineering: The implementation of Islamic law in contemporary Aceh* (Oxford: Oxford University Press, 2013); R. Michael Feener, David Kloos and Annemarie Samuels (eds.), *Islam and the limits of the state: Reconfigurations of ritual, doctrine and community in contemporary Aceh* (Leiden: Brill, 2015).

26 Estimates of the death toll vary between 130,000 and 200,000. A total of 167,000

was signed by GAM and the Indonesian government in August 2005. Since then, the rebel movement has been disarmed and turned into a political party, Partai Aceh (PA), which is currently in power both at the provincial level and in most districts. At the time of writing, PA, with the exception of some district heads and political entrepreneurs with populist inclinations, had not pushed for further expansion of the Sharia legal framework.

Ambiguity towards political Islam reflects GAM's earlier ideological positioning during the conflict. At the same time, it should be noted that the conflict made it difficult for (trans)national, revivalist, or radically Islamist groups to establish themselves here. For example, the revivalist Islamic Partai Keadilan Sejahtera (Prosperous Justice Party, PKS), which has been quite successful at the national level, in the 2009 local elections won only 3.8 per cent of the votes, while Partai Aceh gained 46.9 per cent.[27] The conservative Islamic student movement Kesatuan Aksi Mahasiswa Islam Indonesia (KAMMI), which established an Acehnese branch in 1998, is vocal and visible, but plays a minor role in terms of membership. Radical Islamist movements, such as Hizbut Tahrir Indonesia (HTI) and the Front Pembela Islam (Front of the Defenders of Islam; FPI), have also had difficulty establishing themselves in Aceh.[28] My interlocutors explained this relative weakness in different ways. Some of

is the official number used in most government publications. For an in-depth analysis of the effects of the tsunami on Acehnese society and the post-tsunami remaking of everyday life see Annemarie Samuels, *After the tsunami: The remaking of everyday life in Banda Aceh, Indonesia*, PhD dissertation (Leiden University, 2012).

27 Mawardi Ismail et al., 'Local political parties in Indonesia: the Aceh test case', Policy Brief, Australia Indonesia Governance Research Partnership (Crawford School of Economics and Government, Australian National University, Canberra, 2009). The PKS, founded in 2002 as the successor of the 'Justice Party' (PK, 1998), has been inspired by the ideology of the Egyptian Muslim Brotherhood, and won 7.9 per cent of the votes in the 1999 parliamentary elections. At the time of writing, the party was part of the government coalition of President Susilo Bambang Yudhuyono.

28 See Aspinall, *Islam and nation*, 193–199; Marzi Afriko, 'Syariat Islam dan radikalisme massa: melacak jejak awal kehadiran FPI di Aceh', in Arskal Salim and Adlin Sila (eds.), *Serambi Mekkah yang berubah: views from within* (Tangerang: Pustaka Alvabet bekerja sama dengan Aceh Research Training Institute, 2010), 19–56. Hizbut Tahrir, a transnational organisation which strives for the restoration of the Caliphate, claims to have been in Aceh for many years. However, friends at the campus told me that they have seen people wave the Hizbut Tahrir flag only since the 2004 tsunami.

them suggested that Aceh is 'already very Islamic' and that the Acehnese did not need groups 'from outside' to tell them how to practise their faith. Others stated that radical Islamist groups might be seen as disturbing the fragile state of peace.

Suffice it to say, then, that the inability of Islamist groups to win much support resonates with a more general observation that many ordinary Acehnese tend to be hesitant, indifferent and, in some cases, hostile to 'political Islam' or religious activism more broadly. Such stances and sentiments are seldom highlighted – or even recognised – in the scholarly literature. This is because most studies about Aceh (and Islamic societies more generally) focus squarely on the domain of the state, 'civil society', and the practices and policies of formal institutions.[29] In the next section I move to the ethnographic context of Jurong at a time in which, as one of my interlocutors cynically noted, soldiers and terrorists had come to their backyards to 'play around with weapons'.

3 Global Jihad, or 'Money and Guns'?

On 23 February 2010, just before noon, the well-informed news website *Acehkita.com* reported shooting between police and an 'armed group' the night before, in a forest near Jantho, the main town and administrative centre of the rural district of Aceh Besar. The group was said to consist of about 50 heavily armed people. Three of them were arrested. The others escaped. In the early evening the website stated that a special operations police brigade (Brigade Mobil, or Brimob) was 'combing' the mountainous area near Jantho, which was by now referred to as the 'suspected location of a group affiliated to Jamaah Islamiyah'. More than 300 police troops were deployed. A few hours later it was reported that, in the midst of the raid, a 'civilian' was shot dead by accident while another (his son) was severely wounded. The two, fellow villagers told reporters, had gone out fishing.[30]

The remaining 'terrorists', as they were now invariably called, managed to escape to the forested hills at the foot of Seulawah Mountain, the watershed which separates the Aceh River valley from the north coast lowlands. Despite the rumours of Jemaah Islamiyah, for some time the authorities appeared to be unsure about the identity of the group. On 25

29 For an elaboration of this argument see Kloos, *Becoming better Muslims*.

30 'Polisi baku tembak di Jantho', *Acehkita.com*, 23 February 2010; 'Menysir Jemaah Islamiah', *Acehkita.com*, 23 February 2010; 'Pengepungan Jantho, Satu warga tewas', *Acehkita.com*, 23 February 2010 (accessed 14 March 2010).

February, on the threshold of an eruption of violence, the chief of the Aceh police force declared, 'We are still investigating who they are, where they come from, and why they have come here'.[31] The worst confrontation, on 4 March in a forest near the village of Lamkabeu, resulted in the deaths of three police, 11 wounded, and another civilian casualty (a farmer from Lamkabeu).[32] In subsequent weeks local media covered the chase obsessively. However, it still took several months before a detailed picture was formed of the composition of the group, its ideological pedigree, and the central role of the infamous Dulmatin.

During the clash at Lamkabeue, people in the surrounding area were requested not to leave their villages after dark. This also applied to the villagers of Jurong. A small, rural community with about 500 inhabitants, Jurong is located in the elongated strip of irrigated land between the Jantho mountains and Seulawah. The discovery of the 'terrorist camp' caused a disruption of daily routines. Police patrolled the area regularly.[33] Roads and rice fields were closed off, calling to mind the time of the conflict.[34] Unsurprisingly, one of the primary reactions among villagers was one of fear. Saiful, a 66-year-old man who used to be a trader in the nearby market, said:

> People are scared. Scared that the conflict will flare up again. Is it really a terrorist network (*jaringan teroris*), like they say in the newspaper? … We have not seen this before in Aceh. Or are they linked to GAM, as some other people say? If this is true, then we're finished (*habis semua*).

Another reaction, which also placed the situation in the framework of the conflict, was anger. Suraiya, a 28-year-old mother of one, expressed a common feeling when I talked to her on 4 March, the day after the clash at Lamkabeu:

31 'Segera identifikasi tersangka teroris', *Serambi Indonesia*, 25 February 2010.

32 International Crisis Group, 'Indonesia: Jihadi surprise in Aceh', 12.

33 During my fieldwork I travelled back and forth between Jurong and my other field site, a neighbourhood in Banda Aceh, where I rented a house. In Jurong I lived with a host family. During the shooting in Lamkabeu, neither the villagers nor the local authorities thought my presence to be particularly problematic. However I was requested to report daily to the nearby police office, which I did for a few days until the shootings stopped.

34 During the conflict Jurong was a relatively safe place. Due to its location – close to the main road, the local police station and a well-known religious boarding school – the village was spared much of the violence inflicted on more isolated parts of Aceh Besar, including the mountainous areas around Lamteuba and Lamkabeu, both of which were known as GAM hotspots.

> Like always, ordinary people are caught in between (*masyarakat di antaranya*). Innocent villagers are being killed again. This is what the police usually do: first they shoot; then they investigate (*nggak ada pembicaraan langsung ditembak*).

The fact that it was harvest-time made the situation extra dangerous, Suraiya explained. 'People go to the rice fields. They may not know about the curfew (*jam malam*). No one knows exactly what is going on.' My host mother, Adhinda, worried about her (adult) son, who regularly drove to the market of Lamteuba to deliver goods or people with his pickup truck. 'Here in the village it is safe', she said, 'it would be better if he didn't go there'.

One might expect this violence, and especially the shooting of an ordinary villager, to be the talk of the day. However, when I asked Djuned, who worked as a tailor at the market, what news was going around, he told me that few people were talking about it in public. Asked why, he said, 'You never know who is listening. We do not know more than what we read in the newspaper. But there might be malevolent people around (*ada yang jahat, ada yang tidak*).' Further explanation was unnecessary. People worried about the presence of intelligence agents – and the possibility of raising suspicion – and thus kept quiet. This association became more tangible for me in a discussion with Rina, a middle-aged woman who, together with her husband, ran the village coffee shop. The day before I talked to her, she explained, a couple of strangers had stopped at the coffee shop. They had asked her whether she had seen anything suspicious, after which she told them that she 'did not know anything' (A: *hana teupeu*). This phrase alone – when used in this situation – symbolised the fear and distrust of security forces during the years of conflict.

In private conversations, emotional reactions were accompanied by more analytical ones. When I visited Safwan (quoted already in the introduction), he and his family were watching the national news channel Metro TV, which featured brief coverage from Aceh, including footage of ambulances with wounded police arriving at the main hospital in Banda Aceh. They were hoping for more information, and at the same time curious to see how these events taking place nearby were presented to a national public. The news crawler at the bottom of the screen contained messages such as '4 terrorists, 1 Brimob member dead' and 'SBY: terrorists are not GAM'. It also featured a brief statement by the governor of Aceh, Irwandi Yusuf, who declared that, despite the 'hunt for the terrorists' (*operasi pemburuan teroris*), Aceh was 'a hundred percent safe'. In the meantime, Safwan was giving his opinion:

Safwan: You see, they [the 'terrorists'] are all from outside. They come from Java. Terrorism is a problem there, not here.
David: But haven't they said on the news that some in this group are Acehnese?
S: Yes, but they are not the ones recruiting (*yang mengerahkan* [i.e. the leaders of the cell]).
D: Do you think Aceh is a fruitful place for an organisation like JI to recruit?
S: Absolutely. There are many poor people around here, I mean young people without much education. These people are easily lured (*mudah dipancing*) when they are given money and weapons (*dikasih uang … senjata*).
D: So what about the religious aspect (*bagaimana faktor agama*), you know, the goals of JI?
S: [Thinks for a while] Yes, perhaps religion is important too. Aceh is Islamic. … But this is not the main thing. People who have gone to school, who have a job, they are not interested (*nggak tertarik*).

Talking to various people over the next few days, I found this sentiment to be fairly common. Not everyone thought about it in exactly the same way, though. Take, for example, Hafid, a 25-year-old young man who sold vegetables at the market. Before the tsunami, Hafid had spent a few years studying in a *pesantren* on the west coast. At first he downplayed the situation, arguing that the group was small and could never disrupt peace. Just like Safwan, he mentioned the temptation of money and adventure: but then he brought up something that was completely absent from Safwan's speculations. One might agree with their methods or not, he said, but the 'terrorists' were still 'defenders of Islam' (*pembela Islam*). Although he did not have much formal education, Hafid was very interested in international politics. Equally important, he was well aware of the dominant sentiments among students of the pesantren.

> Just go there, to the pesantren, and check what the students are talking about. What they are reading. They worry about the situation in Palestine, Iraq, Afghanistan. Look at what the Americans are doing. Some people are afraid that they [i.e. 'the Americans'] will come here, and do the same as in Iraq. Are you still surprised, then, that this is happening?

Hafid's argument was not that the pesantren formed a dangerous pool of potential jihadis. Rather, he wanted to convey that – contrary to the often heard idea that the Acehnese are not susceptible to ideas

coming from 'outside' – quite a lot of sympathy existed, especially among younger people, for the idea of 'global jihad' and the struggle against 'Western imperialism'. These thoughts and images circulated freely in Aceh and, even though most ulama in Aceh forcefully reject the kind of violent radicalism associated with JI and kindred groups, the (relatively introverted) world of the pesantren is not exempt from this.

These reactions seem to fit rather well with the conflicting narratives I described in the introduction, of Acehnese nationalism and transnational Muslim solidarity. Other views complicated this dichotomy however. Djuned (quoted above) initially advanced an argument that was similar to that of Safwan:

> There is no reason for terrorism here. Everyone in Aceh is Muslim. We are all Shafi'i. We respect people from other religions. Non-Muslim people, like the Chinese, also live in Aceh, as long as they respect the Acehnese (*hormati orang Aceh* [i.e. Muslims]). In Jakarta you can find other madhhab [schools of law, i.e. other than Shafi'i]. But in Aceh it is not allowed to harass other people (*tak boleh mengganggu orang*).[35]

Like Hafid, Djuned dismissed the jihadis as a 'small group', and predicted that the unrest would soon be over. Having said that, however, he continued with an interesting afterthought, drawing attention to regional differences within Aceh:

> Don't forget that this is Aceh Besar. During the conflict, Aceh Besar was calm. In Pidie and North Aceh, it is different. It is always disorder there (*selalu kacau*). … People from Pidie are hot-headed (*darah panas*). They are traders, looking for money (*pedagang, mencari uang*).

People from West Aceh could also be dangerous, he continued, albeit for a different reason: '[i]n West Aceh, many people know black magic (*ilmu hitam*), but in Aceh Besar, people are just normal (*orang biasa saja*)'. The terrorists, in other words, had definitely come to the wrong place.

The ideas that North Aceh is a place of 'disorder' (*kacau*) and that West Aceh is a remote, mysterious place abounding in witchcraft and associated dangers (*ilmu gaib*) are important registers in Aceh. They have roots going back to the pre-modern period, and were strengthened

35 In Southeast Asia, the Shafi'i madhhab is the generally accepted school of law among Sunni Muslims. In his statement, Djuned referred to the fact that often the Shafi'i madhhab is regarded as less conservative and therefore more inclusive, when compared to other schools of law, including the Hanafi and Hanbali.

during the colonial period and subsequent conflicts.[36] These 'internal' stereotypes were addressed in different ways. Although the confrontation at Lamkabeu took place fairly deep in the forest, it was clear that the situation had escalated. Shots were heard within a wide radius, while dead and wounded police officers, rather than 'terrorists', were being evacuated from the forest and carried off to Banda Aceh over the main road for all to see.[37] When I talked to Udin (20), sitting in the village coffee shop, he said:

> These are Mujahedeen. They have come here to practice, you know, to go to Pakistan, or Iraq. They are not a disturbance. So why should they be arrested? [Lowers his voice] You know, all of these ambulances we hear, they are carrying Brimob, not Mujahedeen. Have you wondered why? Why it is just dead and wounded Brimob who are carried out of the forest, even though they went in six against one? These fighters are *alim* [knowledgeable]. They have special knowledge (*ilmu*). Some of them have the knowledge to become invisible (*ilmu gaib*), or invulnerable (*ilmu kebal*).

Thus in a single statement, Udin connected the confrontation to the global jihad and to local traditions of mysticism and pious resistance.[38]

A certain respect for the jihadis' struggle was noticeable, especially among young men. Often it was not (or not only) driven by religious or ideological persuasion, but rather by a more general masculine fascination with guerilla warfare and renegade behaviour. Referring to the size of the security operation and the many rumours going around, Udin stated that the terrorists, being heavily outnumbered by the police, had to be sparing (*hemat*) with their bullets and use them in a smart way. One of his friends, Ramli, later told me that the terrorists were much better trained than many people thought. 'They are professionals (*profèssional*)', he claimed, 'elite (*elit*)'.

The emotions and explanations referred to in this section, for a large part, were based on rumours. However it is not my intention to engage in a factual reconstruction of events. Instead, I would like to suggest that my conversations with the residents of Jurong may serve

36 For an elaboration of this argument see Kloos, *Becoming better Muslims*.

37 '10 Polisi Tertembak di Lamkabeue', *Acehkita.org*, 5 March 2010.

38 When I asked Mustafa, an older man who was also sitting in the coffee shop and listening to my conversation with Udin, whether he knew people in the village who commanded such powers, he said, 'No, but in the past, yes, during the period of the Darul Islam (*masa DI/TII*)'.

as a kind of prism, revealing some of the options my interlocutors had at their disposal as they were trying to make sense of the situation. These options were based on local differences, connected to gender, social background and age. They elaborated or combined diverse images – of Acehnese self-awareness and the struggle for independence, of clandestine operations and internalised suspicion, of global jihad, mystical powers and regional identity – and alluded to various ways in which these images were woven into local memory and experience and through which they became meaningful or tangible. Many people were fearful of the conflict resurfacing, but probing deeper into individual stances and concerns, these responses and speculations complicated the seemingly straightforward representation of the situation as advanced by most of the media reports and investigations quoted in the introduction. They draw attention to the ambiguity of local interpretation, as well as its changing nature.

In the next section I explore further the origins and evolution of these discursive formations. Taken together, they constitute a rich and diverse repertoire of ideas, images and collective memories. Focusing on the popular discourse of 'holy struggle', I will try to show how these images of violence and piety have travelled through time and space, affecting different people in different ways.

4 From Indra Patra to 'Crazy Aceh': A Brief Genealogy of Struggle

Indra Patra is a coastal fortification located some 20 kilometres north east of Banda Aceh. The structure is one of the few tangible reminders of the 16th century naval battles fought by the Sultanate of Aceh against Portuguese competitors in the region. In the course of the 16th and early 17th centuries, Acehnese and Portuguese war fleets clashed several times. While political and economic motives informed these events, both sides framed the conflict, at least partly, in religious language.[39]

39 See Amirul Hadi, *Islam and state in Sumatra: A study of seventeenth-century Aceh* (Leiden: Brill, 2004); Peter Borschberg, *The Singapore and Melaka Straits: Violence, security and diplomacy in the 17th century* (Leiden: KITLV Press, 2010); Sanjay Subrahmanyam, 'Pulverized in Aceh: On Luís Monteiro and his "martyrdom"', *Archipel* 78 (2009), 19–60. The rise of Acehnese power and the arrival of the Portuguese in the Straits of Melaka were connected developments. When the Portuguese conquered Melaka, Muslim traders in the region rerouted their ships to the north coast of Sumatra. This redirection of trade strengthened these ports,

In 1566, the Sultan of Aceh, Ala'ud-din al-Kahar, sent an envoy to the Ottoman Caliph, Suleiman the Magnificent, requesting him to 'come to the aid of Muslim pilgrims and merchants being attacked by the "infidel" (*kafir*) Portuguese'.[40] A year later, Turkish arms were sent to Aceh by Suleiman's successor, Selim II, and, in turn, became legendary objects in the Acehnese literature of the 17th century.

When the Dutch invaded Aceh in 1873, as part of an attempt to enlarge their colonial empire and gain full control over the Straits of Melaka, the image of kafir aggression was revived. The leaders of Acehnese resistance – local aristocrats, such as Panglima Polem, Teuku Umar, Cut Nyak Dhien, and Cut Nyak Meutia, as well as local ulama, such as Teungku di Tiro and Teungku Kutakarang – presented the struggle as a Holy War. When Sultan Muhamad Daud Syah surrendered in 1903, the war continued, and it was not before the late 1910s that the main centres of resistance were crushed. An important symbol of the war against the Dutch was an Acehnese language poem called *Hikayat Prang Kompeuni* ('Story of the War against the Dutch') or *Hikayat Prang Sabil* ('Story of the Holy War'). Although many different versions of this poem circulated, a central message in all of them was that individual Muslims had a duty to take part in the struggle. Those who died, it stated, would die as martyrs and go to Heaven.[41]

For Acehnese resistance fighters, the *Hikayat Prang Sabil* must have been a source of inspiration and protection, with a function similar to that of the amulets they wore around their necks or the flags with Qur'anic verses and other sacred artifacts they carried with them through the forest. For the majority of Acehnese however, the text might have meant something different. In the *Hikayat Prang Sabil*, the struggle against the Dutch referred not just to the use of violence, but also at the same time to a struggle of the soul, part of a personal, spiritual development, and as a way of strengthening oneself against the 'tricks of the devil'. The poem,

including Aceh, and offered incentives for a stronger attachment to Islam: see Michael F. Laffan, *The makings of Indonesian Islam: Orientalism and the narration of a Sufi past* (Princeton: Princeton University Press, 2011), 10; Om Prakash, 'The trading world of India and Southeast Asia in the early modern period', *Archipel* 56 (1998), 31–42:34.

40 Anthony Reid, 'Aceh and the Turkish connection', in Arndt Graf, Susanne Schröter and Edwin Wieringa (eds.), *Aceh: History, politics and culture* (Singapore: ISEAS Press, 2010), 26–38:29–30.

41 Different versions can be found in T. Ibrahim Alfian, *Sastra Perang: Sebuah pembicaraan mengenai Hikayat Perang Sabil* (Jakarta: Balai Pustaka, 1992) and Henri T. Damsté, 'Hikajat Prang Sabi', *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië* 84, 1 (1928), 545–607.

in other words, was an instrument of moral self-fashioning, part of a crucial (and in a sense very 'modern') literary development which may be traced at least to the mid-18th century.[42] This multilayered aspect was lost to the ears of Dutch generals. For them, the poem was simply a dangerous piece of propaganda. Soldiers of the colonial army were ordered to search villages and houses for copies of the text. Most of these were destroyed, while some were collected for study.[43]

In the final decades of Dutch colonial rule Acehnese images of holy war and Dutch ideas about Acehnese fanaticism evolved further. In July 1933, a Dutch military officer called Captain Schmid was murdered in the town of Lho' Sukon, North Aceh. The perpetrator was an ordinary Acehnese villager, who was also killed in the attack. The murder was widely covered in the Dutch press and became the archetypical example of a phenomenon known, across the Netherlands Indies, as 'Aceh murders' (D: *Atjeh-moorden*). The Dutch used this term to denote a particular kind of suicide attack directed at the lives of Europeans. These attacks were committed by Acehnese individuals (both men and women) who lived on the margins of society. Poor, outcasts or suffering from an incurable disease, they had lost any hope for their future and decided to become martyrs in the name of their faith. Dutch administrators saw the Atjeh-moorden as something related to, but also distinct from, the 'holy war'. In their eyes, the war in Aceh had come to an end in the late 1910s, which meant that individual attacks on Europeans would no longer be categorised as 'acts of war'. Frustrated that the attacks continued to occur, even though political and economic stability was clearly improving, they accentuated the more primordial traits of the Acehnese 'race', including religious fanaticism, conservatism, rebelliousness and, ultimately, an inclination to craziness. In 1923, the largest mental asylum of the Dutch East Indies was built in Aceh, with the specific purpose of dealing with the problem of the *Atjeh-moorden*.[44]

The image of holy war acquired new meanings in the independence era. In 1945, a group of Acehnese religious leaders issued a declaration which treated the Indonesian Revolution as jihad.[45] In the 1950s however, the Darul Islam under the leadership of Daud Beureueh used the same slogan to rebel *against* the Republican government. The idea of jihad was

42 For an elaboration of this argument see Kloos, *Becoming better Muslims*.

43 Damsté, 'Hikajat Prang Sabi'.

44 See David Kloos, 'A crazy state: Violence, psychiatry and colonialism in Aceh, Indonesia, ca. 1910–1942', *Bijdragen tot de Taal-, Land- en Volkenkunde* 170, 1 (2014), 25–65.

45 Reid, *The blood of the people*, 190.

'reawakened … when Acehnese ulama called for a violent struggle with the slogan "martyrdom or victory" and denigrated their opponents as kafir and apostates'.[46] At the same time, the Indonesian military issued a handbook in which they warned soldiers serving in the province of the 'bad influence' of the *Hikayat Prang Sabil*. As noted, the Darul Islam formed the germ of the next conflict between the Indonesian military and the Acehnese separatist movement GAM. The ideology of GAM was ethno-nationalist rather than Islamist. It fought for Acehnese independence, not for an Islamic state. Yet the founder and leader, Hasan di Tiro – a grandson of Teungku Cik di Tiro, one of the great leaders of the Aceh war – was quick to conjure up the image of the holy war. Thus, Aspinall writes about an Acehnese 'cult of martyrdom' marking the early period of GAM.[47] The insurgence was reminiscent of the holy war in other ways too. Some GAM commanders became legendary figures, among both their own followers and their adversaries, not just because of their leading role in the resistance, but also because of the magical powers – including the power to become invisible or invulnerable – they were believed to possess.

GAM was not the only party to lay a claim to the heritage of the holy war. In Aceh, the emergence of General Suharto's New Order regime – and the violent crackdown on (alleged) communists – was accompanied by an attempt to tie the 'rebellious' class of ulama more closely to the state.[48] In December 1965, the army created the Council of Ulama of the Special Province of Aceh (Majelis Ulama Propinsi Daerah Istimewa Aceh; the predecessor of the national Majelis Ulama Indonesia [MUI], or Indonesian Council of Ulama). In its first *fatwa*, the Council 'banned' communist sympathies, conflating communism with atheism and neo-colonial ideology.[49] This decision was further solidified in terms of a vow (*ikrar*) to continue the 'holy struggle' (*perjuangan yang suci*)

46 Aspinall, *Islam and nation*, 96–97.

47 Ibid., 97–99.

48 These two developments were connected. Throughout Indonesia, the mass killings of suspected members of the Indonesian Communist Party (PKI) were carried out in part by affiliates of Islamic organisations. In Aceh, thousands were killed in actions spearheaded by Islamic youth groups sympathetic to the Darul Islam, who were 'openly encouraged by the army commander in Aceh': Morris, 'Islam and politics in Aceh', 246.

49 'Musyawarah Alim Ulama se Daerah Istimewa Aceh yang berlangsung dari tanggal 17 s/d 18 Desember 1965', 18 December 1965. *Kumpulan fatwa-fatwa Majelis Ulama Propinsi Daerah Istimewa Aceh tahun 1965 s/d 31 Maret 1970* (Banda Aceh: Sekretariat Majelis Ulama Propinsi Daerah Istimewa Aceh, 1979).

that was the Indonesian Revolution.[50] In the 1970s and 1980s the Ulama Council – as well as other institutions of state Islam, such as the State Islamic Institute (IAIN) Ar-Raniry in Banda Aceh – was instrumental in the process of aligning Acehnese ulama with the central ideological principles of the New Order by moulding Islamic norms and practices (and their scriptural justification) into the straightjacket of security, economic growth and 'development'.[51] In 1985 former chairman of the council and former governor of Aceh, Ali Hasjmy, in a reflection on his career, claimed that 'the people of Aceh agreed and believed that Darussalam [i.e. 'Aceh'] and the Majelis Ulama could not be separated in the midst of the struggle'. This, he stated, is why the army had reinvigorated the ulama in the 'broad meaning of Darussalam, which is to produce people of [the state ideology] *pancasila*, of God's infinite greatness, of superior spirit, of extensive learning, and a noble mind'.[52]

The idea of holy struggle thus acquired different meanings in the hands of different people. While Hasan di Tiro was putting effort into harmonising the concept with Acehnese nationalism, Ali Hasjmy solidly embedded it in secular state ideology. Beyond the polarised sphere of political ideology, moreover, hybrid forms emerged. Let me conclude this section with three examples which show that the images of violence and piety discussed here are dynamic constructs, open to interpretation and continuous adaptation depending on the context.

Tjoet Nja' Dhien (1988) is one of the most successful Indonesian motion pictures of the 20th century, and deals with an illustrious episode in the Aceh War.[53] The film shows how Cut Nyak Dhien called her fellow Acehnese to arms, in order to protect their land (A: *nanggroe*) and their faith (*keyakinan*) against the 'unbelievers' (*kaphe-kaphe*), to educate their children by reading the *Hikayat Perang Sabil*, and to follow them in martyrdom (*menjadi syahid*) by joining the jihad. While romanticising the holy struggle of the Acehnese, the film portrayed the war as part of the Indonesian national struggle. As the actress Christine Hakim, famous for her role as Cut Nyak Dhien (Tjoet Nja' Dhien), put it:

> Before I played Tjoet Nja' Dhien I was always confused as to where my blood came from, because I could not directly answer the question,

50 M. Ali Hasjmy, *Semangat merdeka: 70 tahun menempuh jalan pergolakan & perjuangan kemerdekaan* (Jakarta: Bulan Bintang, 1985), 706.

51 For an elaborated discussion of this process see Feener, *Shari'a and social engineering*.

52 Hasjmy, *Semangat merdeka*, 711.

53 *Tjoet Nja' Dhien* (Indonesia, Eros Djarot, 1989).

> 'Where do you come from?' I have mixed blood. I grew up in Yogyakarta, Central Java, but my parents, grandparents and great grandparents are from Padang, Aceh, Banten, Pekalongan, Madiun, and the Middle East. I wanted to know more. When you know your roots you know exactly who you are and where you belong. … We Indonesians must respect Tjoet Nja Dhien and other heroes too, who fought to make us free.[54]

Another example is the afterlife of the *Hikayat Perang Sabil*. In 1999, the poem was rediscovered by a young class of urbanites, who were involved not in the armed struggle of GAM, but in grand-scale, peaceful demonstrations calling for a referendum on the administrative status of Aceh.[55] The poem was recited during rallies, 'with singers often moving protestors to tears with the beauty of its rhythms and the power of its lyrics'.[56] According to Aspinall, the sudden popularity of the poem may be explained, at least in part, on the basis of the 'clandestine contact' between urban activists and GAM. At the same time, it is important to note that the epic acquired new meanings in the context of the call for a referendum. Although many of them had never heard the poem before, they were struck by its mobilising qualities, its ability to 'stimulate a spirit of Acehneseness and a spirit of resistance'. This, writes Aspinall, was a 'cultural nationalism still in formation'.

Finally, let me mention the work of Taufik Al-Mubarak, a young journalist, writer and former referendum activist, and his decision to use the phrase *Aceh Pungo* ('crazy Aceh') as the title of a collection of his newspaper columns.[57] This title was meant as a provocation, he explained, displaying the fundamental ambivalence this term acquired after the Dutch began to think of the Acehnese as being 'inclined' to lunacy. Pungo ('crazy'), as I noticed myself during my fieldwork, is both a sensitive and an ambiguous term. In Aceh, to call someone pungo may be the quickest way to get into a fight. At the same time, the term has come to refer to a range of heroic, unique, magical or indeed any other kind of extraordinary behaviour. In his foreword to the volume, the editor wrote that Cut Nyak Dhien was also pungo, as was the author, Taufik Al Mubarak. In the piece entitled 'Pungo', Taufik discusses, in a confrontational style, the ironies of his time:

54 Cynthia Webb, 'Christine Hakim: Going where life leads her', www.thejakartapost.com, 8 December 2010 (accessed 4 November 2013).

55 Edward Aspinall, 'Whither Aceh', *Inside Indonesia* 62, April–June 2000.

56 Aspinall, *Islam and nation*, 139.

57 Taufik Al-Mubarak, *Aceh Pungo* (Banda Aceh: Bandar Publishing, 2009).

> When, like now, it is the season of tenders, I see many Acehnese – though not just Acehnese – who are suddenly crazy (*tergila-gila*) because they want to buy a deluxe car of the *Harrier* brand. This desire is stronger than the year before, when they just wanted to own a Honda CRV or New CRV. Such people are commonly referred to by villagers as '*Pungo Moto*' [crazy for cars].
>
> This type of desire reminds me of the early days of *reformasi* in Aceh. During that period the Acehnese just asked for the human rights violators to be brought to trial, but this was ignored by the central government. Then the Acehnese raised their demands, requesting the Federal government that Aceh would be given a share of 70 per cent of the financial balance, leaving 30 per cent for the centre [i.e. 'Jakarta']. This request was also ignored, so Aceh asked for a Referendum. This demand was not met either. Because they were angry, the Acehnese simultaneously demanded Independence.
>
> This shows us that the Acehnese are very *Pungo* in their demands, and that they always try to raise the offer. For the Acehnese, this is a matter of pride. But evidently, Indonesia can be more *pungo* still. The Acehnese asked for independence, and they got a military emergency instead. *Biet-biet pungo* [crazy indeed].[58]

The challenge that Aceh is facing, Taufik seems to imply, goes beyond the struggle against 'outsiders'. It involves a critical perspective on contemporary society, formulated wholly from within Aceh, emphasising, one might say, not only the struggle against others, but also the struggle against oneself.

5 Conclusion

At first sight there seems to be little common ground between the Acehnese history of resistance against state power and the sudden appearance in February 2010 of the forces of global jihad. The members of the jihadi cell led by the 'famous' terrorist Dulmatin were not particularly interested in the Acehnese cause. Although they had hoped for more sympathy among the notoriously pious Acehnese, as becomes clear from their failed attempts to gain support from Acehnese religious leaders,

58 Taufik Al-Mubarak, 'Pungo', in *Aceh Pungo*, 173–174, 174. Originally printed in *Harian Aceh*, 17 June 2008. N.B.: 'Season of tenders' refers to the yearly period during which government projects are put out to tender, after the approval of the state budget.

geography (suitable terrain for clandestine operations) seems to have been a more important factor in their choice of location. At the same time, people in Aceh generally seemed to regard their presence as an outright threat to a hard-won peace. That said, this strange and unexpected episode in my fieldwork also revealed a lot about the ways in which 'Aceh' has been constructed, both inside and outside the province, as a meaningful entity. Like all geographic denominations, 'Aceh' means more than a physical space defined by borders. It exists in the minds of people as a set of particular features and images, connected to the shared and contested memories of the past and views of, and aspirations for, the future. My research in Aceh, which deals, among other topics, with the religious practices and experiences of ordinary Acehnese, has involved a careful deconstruction of the detrimental stereotypes dominating many (scholarly as well as non-scholarly) views of Acehnese history and society. The problem remains, however, that images of violence and piety carry meaning for the people I write about. The stereotype of Acehnese fanaticism is a distortion, but it is also, to some extent at least, quite tangible and 'real'.

This situation, obviously, produces particular challenges for a researcher. On the one hand, these concern the complex ways in which stereotypes created outside Aceh travel 'back', so to speak, from the transnational spaces in which they are produced into the lives of ordinary Acehnese. On the other hand, the discussion above shows that images of violence and piety have been produced continuously within Aceh, by different groups and individuals, and under differing circumstances. One thing I have tried to make clear, then, is the usefulness of combining historical research with the practice of doing fieldwork, approaching this as a truly dialectical enterprise. Fieldwork as a method is indispensible for questioning the images constructed in archives, libraries and collective memory, while archival and library research helps us to understand the discourses and social practices we encounter in the field. By going back and forth, we may appreciate the force of (stereotypical) images, as well as the limits to their effects.

Another, more specific argument concerns the ways in which the images of violence and piety – that is, the various expressions of 'holy struggle' delineated above – are 'used', and how this is commonly interpreted. By now it has become commonplace to frame the history of Aceh in terms of an ongoing struggle against 'outside' forces, be this Dutch colonialism, the Indonesian central state or the fears of 'Westernisation' or 'Christianisation' emerging in the slipstream of post-tsunami reconstruction and post-2005 peace building processes. This has led, to some extent, to misrecognition of the function of local

stereotypes. Ethnic stereotypes provide the kind of 'common ground' on the basis of which differences between groups are mutually recognised and talked about.[59] Thus, Javanese may talk about 'fanatical' Acehnese in order to emphasise their own moderate or 'civilized' outlook, while Acehnese may talk about 'Javanese religion' in order to reinforce their own religious practices as being 'properly Islamic'. Although both statements are based on a claim of moral superiority, what is agreed upon is that the Acehnese are particularly 'pious'. However – and this is the point I want to emphasise – stereotypes also return, and are sometimes even explicitly directed (albeit perhaps in a different form) to those who produced them in the first place. Let me make this clearer by returning briefly to some of the images of violence and piety discussed in the preceding sections.

Representations of Aceh, whether in academic writing, media sources, the bulletins, leaflets, and research publications of (local and international) civil society organisations, or – indeed – in statements made by the Acehnese themselves, often treat Acehnese resistance to outside influences as a basic premise, that is, as a point of departure rather than a historical construction itself. The image of 'holy war', rooted in old images of aggressive 'unbelievers' (starting with the Portuguese), was reproduced and connected to an evolving discourse of Acehnese ethnic self-awareness through resistance to Dutch colonialism and the abuses of the Indonesian central state. The Aceh 'conflict' and the experience of decades of violence and grief framed many reactions to the unexpected outburst of violence in early 2010. My interlocutors in Jurong were confronted with media reports about the death of innocent civilians, with the closing of roads and rice fields, and with a stream of credible and incredible rumours. Some of my interlocutors worried about the 'return' of the conflict. Others tried to close the discussion in advance by stating that, obviously, this was not 'their' struggle. To some extent, these reactions may be seen as a standard response, based on a one-sided account of Acehnese history. Of course, the framework of the Aceh conflict refers to a history and a violence that are both real and deeply disturbing. It is also however, a way of simplifying, defusing, neutralising or rendering irrelevant alternative discourses, as well as a range of 'internal' conflicts and tensions. Both 'Acehnese' and 'outsiders' have stakes, in particular situations and time frames, in downplaying such internal contestations, thereby strengthening the stereotypes associated with Acehnese ethnic identity.

59 See e.g. Thomas H. Eriksen, *Common denominators: Ethnicity, nation-building and compromise in Mauritius* (Oxford: Berg, 1998), 48–56.

Not all reactions in Jurong were framed in conflict-derived terms. The historical and ethnographic discussion presented above conveys other images that were used to interpret, explain or categorise both the cause and effect of violent confrontation. While these images may figure less at the forefront of the dominant narrative of Acehnese history, they are not, for that reason, necessarily less resonant, powerful or 'available'. Some of my interlocutors in Jurong, in their attempt to understand or speculate about what was going on, drew on a long, multifaceted tradition of Islamic mysticism, expressed in the dynamic use and meaning of a text like the Hikayat Perang Sabil, or the belief in supernatural powers. This complicates the framework of the Aceh conflict in at least one respect, as the latter tends to oppose an ongoing Acehnese tradition of pious resistance against the (equally static) interests of ('syncretist' or 'pseudo-Muslim') Javanese oppressors. In Jurong, the sources of magical power and mysticism were often sought, geographically, in the west coast districts and (sometimes) the central highlands, distinguishing these areas from the 'heartland' of the Darul Islam and the GAM (the north coast and Pidie), as well as Aceh Besar itself. Such distinctions in turn, were connected to the shifting dichotomies between 'urban' and 'rural' settings, between 'modern' and 'traditional' lifestyles, and to personal differences in social background and class. Similar mechanisms inform the ways in which official images of Aceh have been constructed. One of the reasons why Ali Hasjmy was able to convert the Aceh-centric image of holy war into a more neutral image of 'holy struggle' was his social position as a reform-minded ulama, former Darul Islam leader and administrator, his role in formulating and representing an urban strand of Islamic modernism, and his personal experience with political life in Jakarta. Few others were able to mediate so successfully between the discourse of Acehnese exceptionalism and the New Order language of statist developmentalism.

A final suggestion concerns the relationship between stereotyping and the problematic idea of 'pious resistance' itself. First, it is important not to overstate the 'religious' factor, even in instances where this might seem apparent. Some of Jurong's young men expressed their respect for the jihadis' struggle, not so much out of cause, but out of a more general sense of sympathy for their relatively weak position (and thus their bravery and the need to be 'smart'), combined with an interest in the adventurous side of armed combat; but if the image of pious resistance loses its hold here, in other contexts Acehnese stereotypes take centre stage, albeit perhaps in unexpected ways. As Taufik Al Mubarak and his reference to the phrase 'Crazy Aceh' show, stereotypes are not always used to sharpen mutual differences. They also have the ability to

serve as the basis or conceptual footing for internal cultural critique. Images of violence and piety are powerful signifiers when it comes to stating the substance of Acehnese ethnic identity, yet they are also highly contested within Acehnese society, and in order to understand their effects it is crucial to ask how they are employed, by whom, and why. In some situations they may indeed be used to magnify the difference from 'others'. In other situations they may lead to reflection, and raise or strengthen ideas for cultural change.

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Glossary

Abangan	Syncretistic or nominal (Javanese) Muslims.
Adat(-istiadat)	Local traditions/customs/customary law.
Ahlu-sunnah wal-jama'ah	'People of the sunnah of the Prophet and the Community'; those who in their view adhere to Islam in the right way.
Ahmadiyah	Global religious community originating from Pakistan, which considers itself Muslim; regarded as heretical by most mainstream Muslims.
Aisyiyah	Women's organisation of the Muhammadiyah.
Akhlak	Morals/ethics.
Akta cerai	Divorce certificate.
Alhamdulillah	Praise be to God.
Aliran	Pillar or stream, often used to differentiate between abangan and santri and between traditionalist and modernist Muslims.
Aliran sesat	Deviant group.
Amir	Leader.
Ansor	See: Gerakan Pemuda Ansor.
Aqidah	Faith/creed.
Asas tunggal	Sole basis. The obligation for associations to declare that Pancasila is their only ideological principle.
ATPLP	Aliansi Tolak Perda Larangan Pelacuran di Bantul. Alliance for the Rejection of the Bantul Regulation Banning Prostitution.
Aurat	Parts of the body that should remain covered in public or when guests are received.
Ayat	Qur'anic verse.
Azan	Call to prayer.
Baju koko	Indonesian male Islamic attire.
Bappenas	Badan Perencanaan Pembangunan Nasional. National Development Planning Agency.
Bayan	Explanation/statement.
Bedug	Mosque drum.
Bida	(Forbidden) innovation in Islam.
BRR	Badan Rehabilitasi dan Rekonstruksi. Rehabilitation and Reconstruction Agency (Aceh).

Bupati	Government official heading a kabupaten.
Dakwah	Muslim missionary activity/religious propagation, also among Muslims.
Darul Islam	Islamic rebellion in Indonesia from 1948/9–1965.
Dayah	Islamic boarding school (Aceh).
DDI	Dewan Dakwah Islamiyah. Islamic Dakwah Council.
DDII	Dewan Dakwah Islamiyah Indonesia. Indonesian Islamic Dakwah Council.
Desa	Village.
Dewan Mustasyar	Supreme (Advisory) Council.
Dewan Syuriah	Advisory Council.
DOM	Daerah Operasi Militer. Military Operation Zone (Aceh).
DPR	Dewan Perwakilan Rakyat, Parliament.
DPRD	Dewan Perwakilan Rakyat Daerah. Legislative assembly at the provincial, kabupaten and municipal level.
Dhikr	Repetitive chant of part of the Profession of Faith or other mystical phrases during religious ceremonies.
Fasakh	Divorce by judicial decree.
Fatwa	Religious legal opinion.
Fiqh	Islamic jurisprudence.
FPI	Front Pembela Islam. Front of the Defenders of Islam. Paramilitary organisation.
GAI	Gerakan Ahmadiyah Indonesia. Indonesian Ahmadiyah Movement.
GAM	Gerakan Aceh Merdeka. Free Aceh Movement.
Gampong	Village (Aceh).
Gerakan Pemuda Ansor	Youth organisation of the Nahdlatul Ulama.
Gerbang Marhamah	Gerakan Pembanguan Masyarakat Berakhlaqul Karimah. Gate to Love and Peace. Movement to establish a pious society.
Golkar	Golongan Karya (Functional Groups). Government party in the New Order.
Gugat cerai	Divorce case filed by the wife.
Guided Democracy	Period between 1959 and 1965.
GUPPI	Gabungan Usaha Pembaharuan Pendidikan Islam. Joint Effort to Modernise Islamic Education.
Hadith	Traditions about the words and the deeds of the Prophet.
Halal	Permitted according to fiqh.
Harta bersama	Joint property acquired by husband and wife during their marriage.
Haqiqa	Essence of God.
Hijab	Headscarf that leaves the face visible.
Hizbut Tahrir Indonesia	Indonesian Party of Liberation. Radical, fundamentalist Muslim organisation.

HMI	Himpunan Mahasiswa Islam. Islamic Student Association. Close to Muhammadiah.
HMI-MPO	Himpunan Mahasiswa Islam-Majelis Penyelamat Organisasi. Islamic Student Association-Council of the Rescuers of the Organisation. Splinter group of the HMI rejecting asas tunggal.
HTI	See: Hizbut Tahrir Indonesia.
HUDA	Himpunan Ulama Dayah Aceh. Association of Acehnese Dayah Ulama.
IAIN	Institute Agama Islam Negeri. State Institute of Islamic Studies.
Ibadah	Worship/ritual observance.
ICMI	Ikatan Cendekiawan Muslim se-Indonesia. All-Indonesian Association of Muslim Intellectuals.
Id al-Fitri/Idulfitri	Feast of the Breaking of the Fast.
Iddah	Waiting period for a divorced woman before she is allowed to remarry.
Iftar	Breaking of the fast.
Imam	Leader of prayer.
Imam desa	Village imam who may also function as an assistant marriage registrar on behalf of the Ministry of Religious Affairs.
Infaq	Voluntary gift/charity.
Inpres	Instruksi Presiden. Presidential Instruction.
al-Insan al-Kamil	Perfect Man.
Insya Allah	God willing.
IPB	Institut Pertanian Bogor. Bogor Agricultural University.
IPTAF	Ikatan Pendidikan Tauhid Tasauf. Association of Tauhid Tasawuf Education.
Isbat nikah	Confirmation by the religious court of the legality of a marriage.
ITB	Institut Teknologi Bandung. Bandung Institute of Technology.
JAI	Jemaat Ahmadiyah Indonesia. Indonesian Ahmadiyah Community.
Jakarta Charter	Alternative to Pancasila from which it differs for mentioning the obligation of Muslims to follow Islamic law.
Jamaah/jemaah	Community/congregation.
Jamaah/Jemaah Tarbiyah	Community of Education. A network of radical, fundamentalist Muslims closely linked to PKS.
Jaringan Islam Liberal	Network of Liberal Islam, an organisation of young Muslim intellectuals founded in 2001.
Jemaah Islamiyah	Islamic Community. Name of an organisation some of the members of which have been convicted for taking part in the Bali bombings and other terrorist attacks.

JI	See: Jemaah Islamiyah
Jihad fi sabilillah	Struggle along the path of God, often interpreted as holy war.
Jilbab	1) Headscarf that leaves the face visible. 2) Loose-fitting garment covering the whole body of a woman.
JPRMI	Jaringan Pemuda dan Remaja Masjid Indonesia. Indonesian Network of Mosque Youth and Teenagers.
JT	See: Jamaah Tarbiyah.
Kab	See: Kabupaten
Kabupaten	Regency (administrative area).
Ka(a)ffah	Comprehensive (Islam/Islamic law).
Kafir	Non-Muslim/unbeliever.
KAMMI	Kesatuan Aksi Mahasiswa Muslim Indonesia. Action Union of Indonesian Muslim Students. An association of strict Muslim students founded in March 1998 and closely linked to the PKS.
Kampung	1) Village. 2) Town quarter.
KH.	Kyai Haji, title of a Javanese scholar held in high esteem (and who performed the pilgrimage to Mecca).
Khalwat	A man and woman (not married to each other nor close relatives) in a secluded space, without others being present. Illegal according to fiqh.
Kham(a)r	Alcoholic drinks/intoxicants.
Khatib	Preacher who delivers the Friday sermon in the mosque.
KemenAg	Kementerian Agama. Ministry of Religious Affairs.
Khilafah	Caliphate.
KSAF	Kelompok Studi Agama dan Filsafat. Religion and Philosophy Study Group.
Khul(uk)	Divorce granted on the initiative of a woman, often in exchange for financial compensation to her ex-husband.
KISDI	Komite Indonesia untuk Solidaritas dengan Dunia Islam. Indonesian Committee for Solidarity with the Islamic World. Founded in 1986 by, among other persons, Moh. Natsir, a former Masjumi leader, to support the Palestinian cause. A hardline Islamist group.
Kompilasi Hukum Islam	Compilation of Islamic Law.
Komnas Perempuan	Komisi Nasional Anti Kekerasan terhadap Perempuan. National Commission on Violence against Women.
Komnas Anak / Komnas PA	Komisi Nasional Perlindungan Anak. National Commission of Child Protection.
Kota	City
KPPSI	Komite Persiapan Penerapan Syariah se-Indonesia.

	All-Indonesian Preparatory Committee for the Implementation of Islamic Law.
KSD	Kelompok Studi Darussalam. Darussalam Study Group.
KUA	Kantor Urusan Agama. Local office of the Ministry of Religious Affairs.
Kyai/Kiai	Revered religious leader.
Langgar	Prayer house (= musholla).
Laskar Jihad	Paramilitary organisation founded in 2000 to recruit Muslims to fight in the Moluccas. No longer in function.
LBH	Lembaga Bantuan Hukum. Legal Aid Foundation. NGO providing free legal aid to the poor.
LDK	Lembaga Dakwah Kampus. Campus Dakwah Body.
LGBT	Lesbian, Gay, Bisexual, Transgender.
LIPIA	Lembaga Ilmu Pengetahuan Islam dan Bahasa Arab. Institute for the Study of Islam and Arabic. A Saudi Arabian educational institute in Jakarta inaugurated in 1981.
Madrasah	Modern Islamic primary and secondary school in which most of the curriculum (70 per cent) is usually devoted to secular subjects.
Maghrib prayer	Prayer at sunset.
Mahar	Bride price.
Maisir/maysir	Gambling.
Majelis Syuro	Deliberation Assembly.
Majelis Ulama Indonesia	Indonesian Council of Religious Scholars, a national fatwa-issuing institution.
Maksiat	Vice/immoral act.
Ma'rifa	Spiritual knowledge of God.
Maslahat	Public interest/the common good.
Masyumi/Masjumi	Modernist political party founded in 1943, banned in 1960.
MB	Muslim Brotherhood.
Merantau	To leave one's home area for a considerable period of time.
MoU	Memorandum of Understanding.
MPO	See: HMI-MPO.
MPR	Majelis Permusyawaratan Rakyat. People's Consultative Assembly.
MPTT	Majelis Pengkajian Tauhid Tasawuf. Council for the Study of Tauhid Tasawuf.
MPU	Majelis Permusyawaratan Ulama. Consultative Council of Ulama.
Muhammadiyah	Large modernist socio-religious organisation, founded in 1912.

MUI	See: Majelis Ulama Indonesia.
Mukenah	Garment, usually white, worn by women when performing prayer.
Mukim	Area in Aceh comprising a number of gampongs.
Muktamar	Congress.
MUNA	Majelis Ulama Nanggroe Aceh. Ulama Council of Aceh.
Murshid	1) Spiritual guide. 2) Leader.
Murshid ʻamm	Grand teacher.
Murtad	Apostate.
Mushalla/Musholla	Small prayer house or room (= langgar).
Musyrikin	Polytheists/idolaters.
Mutʻah	Gift of consolation by ex-husband in divorce cases.
Nahdlatul Ulama	The Awakening of Ulama, large traditionalist socio-religious organisation, which in certain periods was also a political party; founded in 1926.
Nahdliyin	Those who belong to the Nahdlatul Ulama community.
Nafkah iddah	Maintenance during the iddah period.
New Order	The period between 1965 and 1998.
NKK/BKK	Normalisasi Kehidupan Kampus/Badan Koordinasi Kemahasiswaan. Normalisation of Campus Life/Body for the Coordination of Student Affairs. Refers to measures taken in 1978 to crush anti-government protests by students.
NU	See: Nahdlatul Ulama.
Old Order	The Sukarno period until September 1965.
PA	Partai Aceh. Aceh Party.
Pancasila	Five pillars. The ideological foundation of the Indonesian state. The first one, about religion, speaks of the belief in the One and Only God but does not mention a religion by name.
PAN	Partai Amanat Nasional. National Mandate Party. Political party related to Muhammadiyah, founded in August 1998.
Parmusi	Partai Muslimin Indonesia. Indonesian Muslim Party. Founded in 1968 to become the successor of the banned Masjumi. Failed to become so because of stringent government restrictions.
Partai Demokrat	Democratic Party. Party led by Susilo Bambang Yudhoyono.
PAS	Partai Islam seMalaysia, Pan-Malaysian Islamic Party.
PBB	Partai Bulan Bintang. Crescent and Star Party. Strict Islamic political party, founded in July 1998.
PBNU	Pengurus Besar NU. Central Board Nahdlatul Ulama.
PCM	Pengurus Cabang Muhammadiyah. Board of a Mu-

	hammadiyah branch at the sub-district (kecamatan) level.
PD	See: Partai Demokrat.
PDI	Partai Demokrasi Indonesia. Indonesian Democratic Party. Founded in 1973. Those non-Islamic parties which were still allowed to exist at that time, among them the PNI, were then forced to merge in the PDI.
PDI-P	Partai Demokrasi Indonesia-Perjuangan. Indonesian Democratic Party-Struggle. Secular political party headed by Soekarno's daughter Megawati Soekarnoputri; an icon of anti-Soeharto protests in the later years of the New Order.
PDM	Pimpinan Daerah Muhammadiyah. Board of the Muhammadiyah in a kabupaten and municipality.
PDS	Partai Damai Sejahtera. Prosperous Peace Party. Protestant political party, founded in 2001.
Pemda	Pemerintahan daerah. Local administration.
Pengajian	1) Qu'ran recitation. 2) Islamic study group; religious lecture.
Penghulu	Head of religious administration in colonial days.
Perda	Peraturan daerah. Local byelaw.
Perda Sharia(h) / Syariah	Local byelaw issued to implement aspects of Islamic law or promote an Islamic way of life.
Pesantren	Islamic boarding school.
PII	Pelajar Islam Indonesia. Indonesian Islamic Students. Banned in the New Order for its refusal to accept asas tunggal.
PK	Partai Keadilan. Justice Party. Fundamentalist political party, founded in August 1998. See also PKS.
PKB	Partai Kebangkitan Bangsa. National Awakening Party. Political party related to the Nahdlatul Ulama, founded in July 1998.
PKI	Partai Komunis Indonesia. Indonesian Communist Party. Banned in 1966.
PKS	Partai Keadilan Sejahtera. Prosperous Justice Party. Continuation of the PK.
PMII	Pergerakan Mahasiswa Islam Indonesia. Indonesian Islamic Student Movement. A Nahdlatul Ulama organisation.
PNI	Partai Nasional Indonesia. Indonesian National Party. Secular political party, 'Soekarno's party.'
Posbakum	Pos Bantuan Hukum. Legal Aid Post.
PP	Peraturan Pemerintah. Government Regulation.
PPP	Partai Persatuan Pembangunan. United Development Party. In the New Order the only Islamic political party allowed. Radicalised after 1998.

PUSKUMHAM	Pusat Studi Hukum, Konstitusi dan Hak Asasi Manusia. Centre for the Study of Law, Constitution, and Human Rights.
Qanun	1) Law. 2) Sharia regulation in Aceh.
Qanun Jinayah	Islamic Penal Law.
Ramad(h)an	Fasting month.
Reform(asi) era	The period after May 1998.
Remas	Remaja Masjid. Young mosque activists.
RT	Rukun Tetangga. Neighbourhood.
Santri	1) Devout Muslim. 2) Pesantren student.
SBY	Susilo Bambang Yudhoyono
Sedekah	Voluntary charity; alms.
Sesat	Deviant.
Shafi'i	Dominant school of Islamic jurisprudence in Southeast Asia.
Shahadah	Muslim profession of faith.
Shalawat(an)	Prayers, verses and songs in praise of the Prophet Muhammad and his family.
Sharia(h)	Islamic law.
Shawwal/syawal	Month following the fasting month.
Shaykh al-Islam	Title of a great scholar of Islam.
Shirk	Polytheism.
Shirk jali	Apparent polytheism.
Shirk khafi	Hidden polytheism.
SKB	Surat Keputusan Bersama. Joint Ministerial Decree. In this case of the Minister of Religious Affairs, the Attorney General and the Minister of the Interior concerning Ahmadiyah.
Surat	Chapter of the Qur'an.
Surau	Small prayer house or room.
Tabligh	Missionary activity/religious propagation.
Tajdid	Renewal. Fiqh term to indicate a new religious idea, deviating from tradition.
Takmir	Mosque manager.
Talak	Divorce; repudiation of one's wife.
Tarbiyah	Lit. education, used to denote the strict Islamic movement at universities.
Tariqa/tarekat	Mystical order.
Tarjih	Fiqh term to indicate the deliberations to prefer one opinion over another (to come to a religious decision).
Tasawuf	Mysticism.
Tauhid	Unity of God.
Taushiyah	Religious advice.

Teuku	Acehnese adat title.
Tgk.	Teungku. Acehnese religious title.
Timor Leste	East Timor.
TK ABA	Taman Kanak-kanak Aisyiyah Bustanul Athfal. Aisyaiah Kindergarten, named Bustanul Athfal (Ar. Children's Garden).
UGM	Universitas Gadjah Mada.
UI	Universitas Indonesia.
UIN	Universitas Islam Negeri. State Islamic University.
Ulama	Religious scholar(s).
Uleebalang	Traditional Acehnese aristocracy.
Umma(h)	(Islamic) community.
UNDP	United Nations Development Programme.
Unsyiah	Universitas Syiah Kuala.
Usroh	Lit. family. Religious study groups, usually small. The term is associated with strict Islamic movements at universities.
Ustadz	Male religious teacher/leader.
Ustadza	Female religious teacher/leader.
UU	Undang-undang. Law.
UUPA	Undang-undang tentang Pemerintahan Aceh. Law regarding the Governing of Aceh.
Wahdat al-shuhud	Unity of witnessing.
Wahdat al-wujud	Unity of Being.
Wali	1) Saint. 2) Closest male relative or guardian of the bride who concludes the marriage contract for her.
Wali Songo	The nine saints who spread Islam in Java.
Waria	Male transvestite.
Wasiat wajiba	Obligatory bequest.
Waqf	Religious endowment.
WH	Wilayatul Hisbah. Sharia police in Aceh.
Wujudiyya	Mystical teaching and movement which follows the doctrine of wahdat al-wujud.
Zakat	Mandatory alms.
Zina	Adultery/extra-marital sexual intercourse.

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